DOCUMENT RESUME

ED 268 638 EA 018 355

AUTHOR Henderson, Anne
TITLE Anything Goes: A Summary Report on Chapter 2, the Education Block Grant. NCCE Special Report.
INSTITUTION National Committee for Citizens in Education, Columbia, Md.
SPONS AGENCY Mott (C.S.) Foundation, Flint, Mich.
PUB DATE 85
NOTE 111p.; Appendices may not reproduce well.
AVAILABLE FROM National Committee for Citizens in Education, 10840 Little Patuxent Pkwy., Suite 301, Columbia, MD 21044 ($10.00 plus $1.00 handling unless prepaid).
PUB TYPE Reports - Evaluative/Feasibility (142)

EDRS PRICE MF01 Plus Postage. PC Not Available from EDRS.
DESCRIPTORS *Block Grants; Elementary Secondary Education; Federal Aid; *Federal Legislation; Federal Programs; *Finance Reform; Financial Support; *Government School Relationship; Grants; Parent Participation; *Program Effectiveness; School Support; State Federal Aid
IDENTIFIERS Department of Education; *Education Consolidation Improvement Act Chapter 2

ABSTRACT

Chapter 2 of the Education Consolidation and Improvement Act (ECIA) of 1981 consolidated 28 separate federal education programs into a single block grant. This report evaluates the effectiveness of Chapter 2 as public policy, assessing whether it has led to improvement in education, whether the consolidated programs are more responsive to community needs, and whether the block grant approach is an effective way to deliver educational services. First, the report provides a brief history of federal education programs, explaining how Chapter 2 relates to and has changed federal policy. Then the findings to date are reviewed--who won and who lost, where the money goes, and what it is spent for. The results of the Education Department's monitoring of state Chapter 2 administration are described. The subsequent two chapters are organized around major issues that have surfaced: parent and public involvement, distribution formulas, support for desegregation, the role and authority of state education agencies, and private school participation. The conclusion suggests that the success of Chapter 2 depends on the extent to which communities make their needs known; therefore a list of recommendations is presented for changes in program structure and requirements that would promote greater local participation, and a guidebook is attached for parents and citizens on how to participate intelligently in Chapter 2 decisions. Appended is the text of ECIA Chapter 2, along with pertinent statistical data, reports, correspondence, and references. (TE)

****
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
****

U.S. DEPARTMENT OF EDUCATION
NATIONAL INSTITUTE OF EDUCATION
EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)

X This document has been reproduced as received from the person or organization originating it.

☐ Minor changes have been made to improve reproduction quality.

• Points of view or opinions stated in this document do not necessarily represent official NIE position or policy.

"PERMISSION TO REPRODUCE THIS MATERIAL IN MICROFICHE ONLY HAS BEEN GRANTED BY

Anne J. Henderson

TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)."

Anything Goes: A Summary Report on Chapter 2

by

Anne Henderson

This report is part of a project being conducted by the National Committee for Citizens in Education to help parents and citizens become involved in the new education block grant. The project, which established an information clearinghouse on Chapter 2 and other Federal programs, has been funded by the Charles Stewart Mott Foundation.

"The world's gone mad today
And good's bad today
And black's white today
And day's night today
And that gent today
You gave a cent today
Once had several chateaux...
Anything goes."

Cole Porter

ACKNOWLEDGEMENTS

This project was helped by many, many people. Especial thanks to Bill Rioux, NCCE Associate for Publications, to Bruce Brooks, the expert editor, to Judy Raymond, word processor par excellence, and to my husband, Basil.

Copyright 1985
The National Committee for Citizens in Education, Inc.

TABLE OF CONTENTS

	PAGE
INTRODUCTION	
CHAPTER I: A BRIEF HISTORY	1
The Elementary and Secondary Education Act	
Chapter 2	
Easy to Love	
How Chapter 2 Works: Major Provisions	
The Public Role	
CHAPTER II: FINDINGS SO FAR	11
Effects on SEAs	
Effects on Local Districts	
CHAPTER III: THE EDUCATION DEPARTMENT MONITORS THE STATES	20
Looking Back	
The Turn of the Screw	
The Education Department's Findings in More Detail	
New Standards	
Conclusion	
CHAPTER IV: CRASHING THE PARTY: PARENT AND PUBLIC INVOLVEMENT IN CHAPTER 2	30
Why is Public Involvement Important?	
State Advisory Committees--High Marks So Far	
Sizing Up the SACs: Good News	
Local Public Involvement in Chapter 2	
Prospects for Success	
CHAPTER V: OTHER MAJOR ISSUES	39
State Chapter 2 Formulas	
The Problem with Desegregation Aid	
The Role of the State Education Agency	
Private School Participation	

CHAPTER VI: SIZING UP CHAPTER 2: CONCLUSIONS AND RECOMMENDATIONS 63

Afterword: A Guide to Chapter 2 for Parents and Citizens 72

Pressure Points

The Program Design Process

Additional Resources

APPENDICES 85

Appendix I: Additional Documents and Data on Chapter 2

Appendix II: The Chapter 2 Law

Selected References

INTRODUCTION

A perennial topic of debate in Washington is whether federal funding should be highly targeted to specific needs and populations, or whether it should be open-ended and distributed as widely as possible. Because the debate is rarely resolved, federal programs tend to fall along a tight-loose continuum. At one end is the small competitive grant, awarded to proposals that meet exact specifications; in the middle are large formula grant programs, allotted to public agencies for specific purposes; at the other end is general revenue-sharing, remitted to state or local governments virtually without restriction.

The block grant, which has been a form of federal funding since 1966, falls toward the loose end. "Block grants provide funds, usually to general purpose governmental units... by formula, for use in broad functional areas. The grantees are allowed considerable discretion in identifying problems, designing programs, and allocating resources." (Government Accounting Office, Lessons Learned From Past Block Grants, 1982) Most are not cut from whole cloth, but created by consolidating smaller, more complicated, categorical programs, to reduce administrative overhead and increase state and local flexibility. They also provide a convenient way to bury controversial or unpopular programs which, for political reasons, cannot be repealed.

While many block grants were created before the Reagan Administration took office, it was not until 1981 that any education programs were consolidated into a block grant. The Administration proposed to lump all federal education programs into three very broad block grants; the Congress decided instead to consolidate 28 smaller programs into what is called Chapter 2 of the Education Consolidation and Improvement Act (ECIA), the first education block grant. Nevertheless, this program is considered a cornerstone of the Administration's education policy and a model for future initiatives. The purpose of this report is to help evaluate the effectiveness of Chapter 2 and decide whether it is worthy of imitation.

It has now been three years since the Chapter 2 law went into effect:

> It is the purpose of this chapter to consolidate (28 education programs) into a single authorization of grants to states for the same purposes... but to be used in accordance with the educational needs and priorities of State and local education agencies as determined by such agencies.

> It is the further purpose and intent of Congress to financially assist State and local education agencies to improve elementary and secondary education... in a manner designed to greatly reduce the enormous administrative and paperwork burden imposed on schools at the expense of their ability to educate children.
>
> (Education Consolidation and Improvement Act, Chapter 2, Sec. 561(a))

Block grants have their advantages. The minimal requirements for administrative and fiscal controls, reporting, evaluation, and planning are a relief to state and local administrators. Funds that were once available only for esoteric or narrow purposes, such as law-related education or ethnic heritage studies, may now be applied to a range of actual needs. And the logistical thicket of applying for many separate programs has been paved over with a simple formula grant.

Block grants present drawbacks as well. The cutbacks in funding that inevitably accompany consolidation are rarely made up by reduced overhead costs, as the GAO found in its study; and some services must be curtailed. Programs that entail careful planning or bridge-building can be shelved without penalty in favor of ones of less quality that are easier to run. Then there is the question of accountability. Categorical programs providing funds for well-defined purposes make it comparatively easy to judge if goals have been effectively met. But under block grants, it is often hard to find out who is responsible for what, who reports to whom, and what is going on.

The Reagan Administration has argued that the intent of Chapter 2 and the other 1981 block grants is to make the states "accountable to their own citizens, rather than to federal officials" (GAO, p. v). If local citizens are to be the arbiters of this program, they will need a reliable source of information, one that a reading of the law does not readily identify. Accordingly, the National Committee for Citizens in Education, a nonprofit group that helps parents and citizens become involved in public schools, has been monitoring Chapter 2 since 1982, with a grant from the Charles Stewart Mott Foundation.

While the immediate purpose of this project has been to provide an information clearinghouse on Chapter 2, our ultimate aim is to assess the program as public policy:

- Has it lead to improvement in education?

- Have the Federal programs consolidated become more responsive to community needs?
- Is the block grant approach an effective way to deliver educational services?
- Who benefits, and who decides who benefits?

While we have posed these questions, we do not intend to provide final answers. The trial continues and the jury will probably not deliver a verdict for several years. In 1983, NCCE published No Strings Attached: An Interim Report on the New Education Block Grant, which presented preliminary data on the financial and programmatic effects of Chapter 2 and case studies of its implementation in 7 states. This report is intended as a companion-piece, to sum up the information available so far and to make some recommendations.

First the report gives a brief history of federal education programs, explaining how Chapter 2 relates to and has changed federal policy. Then the findings to date are reviewed--who won and who lost, where the money goes, and what it is spent for. Next, the results of the Education Department's monitoring of state Chapter 2 administration are described--how have state education agencies handled the responsibility of a block grant? The next two chapters are organized around major issues that have surfaced: parent and public involvement, distribution formulas, support for desegregation, the role and authority of state education agencies, and private school participation. Finally, we attempt to size up Chapter 2, by drawing some conclusions and making a few recommendations.

There is also an attachment--a guidebook for parents and citizens on how to participate in Chapter 2 decisions intelligently and sophisticatedly. It is intended for those who sit on state or local advisory committees, for those who are involved in improving schools, and for those who want to know more about the program.

Chapter 2 is supposed to make education programs more responsive to community needs; it will succeed only if the community makes its needs known.

CHAPTER I: A BRIEF HISTORY

Federal aid for elementary and secondary education has had a short, stormy history. Although there has been important bipartisan support for the general idea since the end of World War II, not until 1965 was Congress able to pass a large-scale piece of legislation. During the 1950's there developed a trio of obstacles that stymied all bills except the sputnik-inspired National Defense Education Act of 1958 (NDEA). These were: the civil rights issue; the prospect of federal encroachment on local control of schools, and assistance for private and parochial schools.

Each of these was anathema to at least one group of potential supporters. Southern Democrats, who generally liked the idea of federal aid to their economically strapped region, were adamant that there be no interference with its dual school system, while northern members, especially urban Democrats, felt they could not vote for federal aid if it would support racially segregated schools. And Republicans, who were sympathetic to national security arguments, were wary of "the nose of the federal camel under the tent of local control." Measures that contained civil rights provisions were defeated when southern Democrats and conservative Republicans opposed them, and measures that did not address civil rights were defeated when northern Democrats and liberal Republicans withdrew their support.

Even after redistricting reform in the early 1960's increased the number of members from urban areas, enhancing the chances for a moderate-liberal majority, potential coalitions fell apart over the issue of aid to Catholic schools. Most urban congressional districts in the North have large Catholic populations; in some cities, as many as 25% of school-aged children attend parochial schools. Catholic parents and the church hierarchy insisted that any education aid bill not be restricted to public schools. This alienated liberal Republicans, who tend to represent non-Catholic populations, and southern Democrats, whose constituents tend to have anti-clerical sentiments.

The Elementary and Secondary Education Act

The impasse was finally broken in 1965, with the passage of the Elementary and Secondary Education Act (ESEA). Although the ESEA is a masterpiece of political accommodation and compromise, it would never have become law were it not for two major events: the enactment in 1964 of the

Civil Rights Act, whose Title VI settled separately the question of aid for segregated schools, and the Democratic landslide in the previous November.

The bargain that was struck resolved the remaining disputes so cleverly that its essential elements remain firmly in place today, even though Chapter 2 repeals the ESEA and replaces it with something quite different. Nearly all the measures proposed before 1965 were designed to create general aid to local school districts, and were based on the argument that the federal government should assume part of the financial burden of education. ESEA is based on a different argument, one that relieved fears of federal control: Federal aid should be supplemental, and targeted on areas of recognized national need. This approach was modeled on the successful NDEA, the first "categorical" program.

The ESEA had eight separate titles, each designed to meet a problem identified as national in scope and defying local, piecemeal solution. Title I provided compensatory education in basic skills for disadvantaged children, easing the burden on local districts with large minority and low income populations; Title II addressed the need for school library books and instructional materials; Title III created support for demonstration projects to improve education practice; Title IV advanced research and development; Title V strengthened the capacity of state education agencies (SEAs) to assume the administrative responsibility for the other titles; and Titles VI, VII and VIII assisted states to meet the needs of handicapped, bilingual, and dropout students.

The funding arrangements were also calculated to win support from all sectors. Titles I and II went to nearly every school system (certainly every congressional district) in the country but for a specific purpose that did not interfere with local governance. Title III set up a national competition for which all districts potentially were eligible. Title IV went largely to colleges and universities, especially their departments of education. Title V (and the administrative set-asides for the other titles) increased state education departments' budgets by as much as 50%, allaying the reservations of Chief State School Officers, Governors, and state legislators. And Titles VI, VII and VIII gave small, but important, support to state efforts to deal with other troublesome problems.

Still, there was the question of aid for private and parochial schools. How could this be given without violating the constitutional imperative for

separation of church and state? The answer lay in the "child-benefit" theory. Aid would be extended through local education agencies (LEAs) to children who attend private school. This means that children from a low-income neighborhood are entitled to extra help in reading and math, or to adequate library books, regardless of which school they attend. The public LEA, in the case of Title I, hires teachers to provide services at the private schools. The teachers are considered public employees and give services directly to children. The child benefits, not the school. In the case of Title II, the LEA purchases books and materials (secular ones, of course), then lends them to private school libraries for children to read. The constitutionality of this arrangement was not challenged until the last year of ESEA; the question is now pending in federal court. (A recent Supreme Court decision has held the Title I arrangements unconstitutional, but the ruling did not treat the more indirect approach of Title II and Chapter 2.)

Chapter 2

Over the years, the ESEA was amended 8 times. Title I went from 10 pages to 54 pages of statute; several titles acquired the status of separate Acts (the Basic Skills Act, the Emergency School Aid Act); others were consolidated, reorganized and enlarged (Titles II and III became Titles IVB and C); and a host of small, categorical "special projects" were added (Metric Education, Ethnic Heritage, Career-Education, Gifted and Talented). Each program had to be applied for separately, and each had its own funding procedures, regulations, timetables, and guidelines. Local administrators complained that the day of federal encroachment had arrived after all, that the federal government, which provides only 7-10% of the aid for education, had become the managing partner. Yet because each program also had its own, seemingly invincible, constituency, measures to streamline and simplify failed each time the law was reauthorized.

After the election of 1980, conservative majorities controlled both houses of Congress. Bent on cutting back federal programs and regulations drastically, they used the new and largely unfamiliar budget-reconciliation process to bypass regular committees still dominated by program interests and to replace a whole series of programs with block grants. The original Reagan Administration proposal, which would have lumped all the major education

programs into three block grants, was far more radical than that of John Ashbrook (R-OH), the ranking republican on the House Education and Labor Committee, which carried the day.

Ashbrook's legislation, the Education Consolidation and Improvement Act, did not touch the Bilingual Education Act, the Education for all Handicapped Children Act (P.L. 94-142), or Vocational and Adult Education. Instead, it greatly streamlined Title I, now Chapter 1, which was reduced from 54 pages to 6 (less than the original law), and repealed the remainder of ESEA, replacing it with Chapter 2.

Easy to Love

Although Chapter 2 is a block grant, it has several unique features. Each of the 28 "antecedent" programs it replaced is preserved as an area of allowable expenditure; states may design their own distribution formulas but must target some funds or districts with "greater numbers or percentages" of children whose educational needs impose higher costs; private schools are eligible for an "equitable" share of local funds; and there are substantial provisions for parent and public involvement, especially at the state level. Also, the SEAs may keep up to 20% for statewide programs, such as strengthening SEA planning capacity or providing technical assistance to local school districts.

These special features preserve the essential ESEA bargain: funds go to all districts, but more go to districts with higher need; special interests in different areas are preserved, but on a discretionary basis; SEAs still receive substantial aid (about the same, on the average, as under ESEA); and private schools are guaranteed a share of services proportional to enrollment. In the original ESEA, there was relatively little prescriptive language about how funds should be used; this was added later, through amendment and extensive regulation-writing. Chapter 2 cuts away nearly all the underbrush: SEAs are given no authority to influence an LEA's program, LEAs are free to choose among any or all the antecedent programs in deciding how to spend their funds, and the U.S. Department of Education's (ED) program regulations do not have the force of law. What remains, then, are the considerable financial benefits of ESEA, but with virtually no strings attached.

How Chapter 2 Works: Major Provisions

A total of $446 million was available to states under Chapter 2 in fiscal year 1985, a reduction of about $60 million from the total of previous programs (a cut of 12 percent). Funds flow from the Education Department to the states based on the size of their school-aged population. The State Education Agency (SEA) may reserve up to 20 percent for statewide programs, such as strengthening SEA planning capacity or providing technical assistance in curriculum development. The remaining 80 percent (or more, depending upon how much the SEA reserves) must be distributed to local education agencies (LEAs) according to a formula designed by each state. The SEA must consult with a state advisory committee to develop a formula that is based on enrollment, but that allows more help to districts with educationally needy children.

A diagram of the Chapter 2 process looks like this:

1. $479 million (FY85)	2. $87 million to SEAS	3. $359 million to LEAs
Secretary of Education reserves: 1% for Trust Territories 6% for discretionary fund ($28 million) Then distributes: $446 million to states according to their school-aged population	The SEA files an application (every 3 years) after: • Consulting with the State Advisory Committee about: 20% reserved for state programs 1. How state programs will be funded among subchapters A, B, & C. 2. Formulas for LEAs to receive funds. 80% flows to LEAs • Providing public notice and dissemination about state program.	The LEA files an application to the SEA (every 3 years): • Assuring that it has consulted with parents, teachers, administrators, and others, • Describing how it will divide the funds among subchapters A, B, & C. A. Basic Skills B. Improvement & Support C. Special Projects • Describing how it will serve private school children, and • Agreeing to keep records for SEA audits and evaluations.

Chapter 2 is divided into three parts, each containing a type of program the SEA or local school district may choose to support. All the antecedent programs that were consolidated into Chapter 2 are included in one of the parts. Both state and local education agencies are free to support any or all of the programs from their Chapter 2 grants.

PART A

Basic Skills Development (formerly Title II, ESEA)

- Programs to improve reading, written and oral communication, and mathematics, for children and adults

PART C

Special Projects (all formerly Titles III, VIII, & IX, ESEA)

- Metric Education
- Arts in Education
- Preschool Partnership
- Consumer, Health, Corrections and Population Education
- Youth Employment
- Biomedical Sciences
- Community Education
- Ethnic Heritage
- Gifted and Talented
- Career Education

PART B

Improvement & Support Services

- To purchase school library resources, textbooks, and instructional equipment and materials (formerly Title IV-B, ESEA)
- To encourage innovation and improvement in local education practices and to address education problems of students with special needs (formerly Title IV-C, ESEA)
- To provide guidance, counseling and testing services (formerly Title IV-D, ESEA)
- To strengthen SEA management capacity (formerly Title V ESEA)
- To encourage voluntary desegregation (formerly the Emergency School Aid Act)
- to provide professional development opportunities for teachers (formerly Teacher Corps & Teacher Center Programs)

The Public Role

Before the state can receive its funds, the governor must appoint a State Advisory Committee (SAC) that represents:

- Children in public and private schools
- Classroom teachers
- Parents of elementary and secondary school children
- Local board of education
- Local school administrators
- State legislators

The SAC's role is only advisory, but it does have the authority to make recommendations to the State Education Agency (SEA) in two major areas:

1. How much the SEA may reserve for state programs (up to 20 percent) and how those funds are to be divided among the programs in Parts A, B, and C.
2. How the formula allocating the rest of the funds (minimum 80 percent) to local school districts will be weighted to help districts that have higher percentages of children whose education costs are above average. (Example: when children from low-income families, who are handicapped, live in sparsely settled areas, or are gifted).

In addition, the SAC is responsible for offering continuing advice on the planning, implementation, support, and evaluation of the state program. Although the SAC does not have specific authority to advise on local programs, the SEA is required to include comments from the SAC in its annual evaluation of the effectiveness of local programs. The SEA is also required to provide "timely public notice" of information about the SAC and how Chapter 2 funds will be distributed and used.

In developing their applications for funding from the SEA, local districts must provide for "systematic consultation with parents of children attending elementary and secondary schools in the area served by the local agency," and with teachers, administrators, and "other groups" the district finds appropriate. The consultation is supposed to cover which programs will be supported and how they are designed, planned, and implemented. In addition, if the district decides to have a basic skills program, it must develop a strategy for improving instruction that involves parents "to the extent practicable."

Although the state advisory committee and the "systematic consultation" requirement for local districts provide opportunities for public involvement in the program, they are very similar to provisions for public involvement in the antecedent programs. The major advantage under Chapter 2 is that there is one set of requirements that applies to all programs consolidated, rather than a slightly different set for each one.

CHAPTER II: FINDINGS SO FAR

Most of the reporting on Chapter 2, including NCCE's, has been concerned with its financial effects, with shifts in funding patterns from the previous programs, with winners and losers. The major conclusions are that there was a massive redistribution of federal funds away from poor and urban states with large numbers of minority children in the industrial Northeast and South, toward sparsely settled states with few minority children, especially in the western part of the country. Within states, urban districts lost, while rural and wealthy suburban districts picked up support. Within local districts, private schools received more than ever before, and public schools in large districts lost. In smaller districts, public and private schools both gained slightly. Teacher centers, community education programs, special projects, basic skills instruction, desegregation efforts, and innovative programs were cut back, while purchases of books, materials, and computers soared.

Chart II-1
Winners and Losers Under Chapter 2

	1981	1982	% Change
Biggest Winners	(+11% and up) N=7		
Alaska			30.7
Nevada			28.6
Wyoming			25.4
Kentucky			19.9
Minnesota			15.4
North Dakota			12.1
West Virginia			11.3
Moderate Winners	(+1-10%) N=12		
Maryland			9.2
South Dakota			9.1
Oklahoma			7.9
Oregon			7.8
Iowa			6.6
Arkansas			5.0
*Florida			3.9
Kansas			3.3
New Hampshire			3.1
Pennsylvania			3.1
Utah			2.8
*Texas			1.5

* States that received more than 25% of their Fiscal Year 1981 funds from the Emergency School Aid Act (ESSA).

Slight Losers (same - 12%) N=11	
North Carolina	-3.4
South Carolina	-3.5
Illinois	-3.7
Colorado	-4.4
Massachusetts	-4.4
Idaho	-7.0
Tennessee	-9.2
Montana	-10.5
Arizona	-10.7
Maine	-11.2
*Michigan	-11.2
Moderate Losers (-12% to -20%) N=8	
*Georgia	-12.4
*New Jersey	-13.2
Virginia	-16.0
Hawaii	-16.3
*Alabama	-17.9
*Ohio	-19.2
*Indiana	-20.3
Vermont	-20.9
Big Losers (-22% and more) N=13	
Rhode Island	-22.0
Nebraska	-23.2
*California	-23.8
*Washington	-23.8
New Mexico	-24.1
*Louisiana	-25.9
*Connecticut	-26.9
*Mississippi	-31.1
*New York	-35.0
*Wisconsin	-35.2
*Missouri	-49.3
District of Columbia	-56.9
*Delaware	-58.9

*States that received more than 25% of their Fiscal Year 1981 funds from the ESAA.

The radical reallocation of funds can mainly be explained by the shift in the method of distribution, from a hodge-podge of funding mechanisms to a single, enrollment-driven formula. Still, the vagary of the changes requires further explanation. Why, if the total funding cut was only about 12%, did some states lose 25, 35, even 50% of their funding? And why did so many states actually gain funds?

The largest gains and losses can be accounted for by a single fact: the consolidation into Chapter 2 of the Emergency School Aid Act (ESAA). This $149 million program was, in funding terms, nearly 30% of all the previous

programs, and it provided support for school districts in the process of desegregation. Although school districts in nearly every state received some ESAA funding, the money was concentrated in large cities with preponderantly minority populations, such as St. Louis, Detroit, New York, Philadelphia, Seattle, Buffalo, Cleveland. The funds went directly from the Education Department to school districts that submitted an acceptable plan for reducing minority isolation; only rarely did SEAs receive grants.

Under Chapter 2, the funds flow to states according to school-aged population, and to districts based on enrollment, adjusted somewhat for need. This means that the ESAA funds, once highly targeted to a few cities, now are distributed to virtually all districts in the country. It also means that SEAs share a portion they never had before. The seventeen states that in 1981 received more than 25% of their antecedent funds from ESAA sustained an average loss of 23.5% under Chapter 2. The ten states that were the biggest winners in Chapter 2 received among them only 2% of all the 1981 ESAA funds.

While the ESAA factor explains why so many sparsely populated states fared well under Chapter 2, there are several states that lost funds without losing big ESAA grants--Rhode Island, Nebraska, New Mexico, and the District of Columbia. There are also two conspicuous ESAA states--Florida and Texas--that managed to hold their own. These anomalies may be a product of population shifts. Florida and Texas are the fastest-growing "Sunbelt" states; their population increases may well have offset their ESAA losses. Other losses probably reflect unusually large awards in the 1981 special projects and Basic Skills programs. (The funding levels for the antecedent programs are shown in Appendix I).

There is another, totally overlooked, group of winners under Chapter 2--the trust territories (Guam, Virgin Islands, American Samoa, Pacific Islands, Mariana Islands and the Native American reservations adminstered by the Bureau of Indian Affairs) and the Secretary's discretionary fund, which gained a total of over $3.5 million, or 12%, a proportion as great as the cut taken in the program as a whole.

	1981	1982	% Change
Amount to States	$506,992,000	$437,472,000	-13.7%
Amount to Territories	3,940,000	4,704,000	+19.4%
Secretary's Fund	25,446,000	28,227,000	+10.9%
Total	$536,378,000	$470,400,000	-12.3%

Effects on SEAs

Although the changes in state funding patterns illustrate the rearrangement of federal priorities, they tell us little about the actual impact on education agencies and those they serve. There is, in fact, rather little data in this area; but from our survey of SEAs and the state applications for Chapter 2 funds sent to the Education Department, it is possible to piece together a general picture.

Under the antecedent programs, SEAs received a variety of funds. The largest sources were Title V, ESEA, which provided about $42 million to strengthen SEA management, and Titles IV-B and C, which were administered by SEAs and allowed an administrative set-aside of 5% or $225,000 (whichever was greater) per state, for an estimated total of $15.2 million. Some of the smaller categorical programs, such as Gifted and Talented or Community Education, allowed a 10-15% SEA share, while some special project grants were awarded directly to SEAs. Unfortunately, there does not appear to be a single, complete source of information on pre-Chapter 2 SEA funding, either at the Education Department, or in many SEAs. The categorical programs were highly vertical in their administration, from Education Department to SEAs to LEAs, and there were few coordinating mechanisms to provide information across each level. If we add the allowable administrative set-asides from the smaller programs to the total SEA share of Titles IV and V-B, and throw in an additional 10% for competitive awards, we have an estimate of $81.8 M.

Chapter 2 allows an SEA to retain up to 20 percent of its total state grant. Only 5 states reserved less than the full 20%; the average is 19.5%. This is a total of $85.3 million, if Puerto Rico and the Trust Territories are included, or more than twice the amount provided by Title V. The states that responded to our survey estimated their gains or losses about evenly--that is, about as many reported gaining slightly as reported losing. It is probably safe to assume that most SEAs--except those in the smallest states, which lost funds when the minimum grant provisions in the categoricals were repealed--held even or gained under Chapter 2.

Our analysis of SEA programs supported by Chapter 2, which is presented in No Strings Attached, found that SEAs have tended to make few changes. In general, SEAs have used federal funds to support personnel and strengthen their technical assistance, planning, research, and evaluation capacities, rather than to provide direct aid to local schools. This was the intent of

ESEA and the tendency has not changed under Chapter 2. It is important to remember that staff paid with Chapter 2 funds often do provide direct technical assistance to LEAs, in such areas as curriculum development, in-service training, basic skills remediation, and computer technology.

There is, however, a major variation on the theme: several SEAs that gained funding under Chapter 2 created small, competitive grant programs for local districts out of their 20 percent share. These programs are patterned on ESEA Title IV-C; many were designed to cushion the losses larger districts sustained in the shift to Chapter 2. Seven of these states (see chart below) had large ESAA grants; their new competitive programs emphasize desegregation efforts, in effect channeling extra funds directly to districts that lost ESAA funding.

During the first two school years of Chapter 2 (1982-83 and 1983-84) twelve states had such competitive programs. In 1984-85, five states discontinued theirs; four of the five had a heavy desegregation emphasis. Under Title IV-C, SEAs could set priorities for education development by announcing competitions in certain areas, such as effective instruction for disadvantaged children or alternative classroom design.

Unless an SEA wishes to use its own 20 percent funds for this purpose, competitive grants are not allowable under Chapter 2. The 80 percent reserved for local districts must be allocated by formula, not by competition. In general, then, SEAs that used some of their share to set up broad, competitive programs tended to keep them, while SEAs that used the programs to hold ESAA districts "harmless" (an expression used in Washington, D.C., meaning to preserve last year's funding level) tended to discontinue them once the transition period passed.

States with Chapter 2 Competitive Grant Programs

State	Am't for Program	% of SEA Share	Type of Program	Discontinued in 1984-85
CA*	$1,500,000	18.6	Competitive mini-grants for innovative programs	X
CT*	$100,000	8.9	Competitive grants for innovative programs, desegregation, and career education	

* States that received more than 25% of their Fiscal Year 1981 funds from the ESAA.

FL*	$1,184,000	37.2%	Competitive matching grants to improve foreign language programs	
IN*	$350,000	16.5%	Competitive matching grants for racial desegregation, teacher centers, and technology instruction	X
MI*	$375,000	10.3	Competitive grants for school improvement, school community relations, diffusion of exemplary projects	
MN	$155,000	10.2%	Competitive grants for improvement projects	
NC	$553,000	25.0%	Competitive grants for drop-out prevention, career development, and computer applications	
NJ*	$350,000	13.0%	Competitive grants for desegregation programs	X
NY*	$2,100,000	33.5%	Competitive grants for desegregation, diffusion of exemplary programs, resource reallocation and computer technology centers	X
PA	$800,000	22.0%	Competitive grants for effective classroom computer use	
TN	$171,000	10.0%	Competitive grants for innovative projects, in-school suspension programs and parenting programs	X
VA	$350,000	18.0%	Competitive grants in basic skills, school improvement, and special projects	

* States that received more than 25% of their Fiscal Year 1981 funds from the ESAA.

Effects on Local Districts

Because there is no national reporting system in Chapter 2, we do not have definitive data on local distribution and use. The $1.6 million national study of Chapter 2 commissioned by the Education Department is now looking at local effects in great detail; a report is expected in early 1986.

There are enough scattered reports, however, to give a picture of major trends. From 1983 studies by the American Association of School Administrators (AASA) and the Council of Great City Schools (CGCS),we know that the shifts in funding among school districts within states have been just as dramatic as the shifts from some states to others. In general, small

school districts, which are the vast majority among the nation's 16,000, gained small amounts, while the largest districts lost huge amounts.

In a survey of its members, the AASA reports that 67% of responding districts received more money from Chapter 2, although large districts lost as much as 80%. The nation's thirty largest districts sustained average cuts of 45%, largely because they lost ESAA grants. At the same time, they also suffered disproportionately from other cuts in federal aid. The CGCS estimates that the total amount of education-related federal aid lost in just these 30 districts was over $300 million between FY 81 and FY 82.

The significance of these huge shifts in funding is not just an urban-rural, or urban-suburban one. Under the previous categorical programs, federal aid tended to be targeted to districts with large concentrations of needy children. In fact, 45% of the nation's racial minority children attend school in the 30 largest cities. Under Chapter 2, the notion of equity has been radically redefined, from one of targeting toward disadvantage to one of distributing by population.

This more distributive idea of equity--where all children are regarded as equally deserving--is very apparent in the extended participation of private schools in Chapter 2. Children who attend private school are entitled to participate on an equal basis--defined under the law as "consistent with the number of children to be served"--with children in public school. Even in districts with large numbers of "high-cost" children, the funds attracted by those children must be spent equally on children in private schools. This means that if 30% of the children in a school district attend private school, then 30% of the district's grant must be used to provide service to those children. If a district decides to spend its funds only for programs to serve "high cost" children, it may not limit private school participation on that basis. "An LEA must provide Chapter 2 services for the private school children that address their needs, even if those needs are different from the needs of children enrolled in public schools" (from the Education Department's Non-Regulatory Guidance (NRG) on Chapter 2, Question and Answer #131). (This issue is explored in more depth in Chapter V.)

Wider distribution of funds is also encouraged by the funding structure established in the law. Although the law provides that state formulas must be adjusted to help districts with "high cost" children, all districts in a state must receive some allocation. The majority of states have devised

formulas that send most aid to districts on a per-pupil basis, with a slight adjustment for need. The average state formula distributes 70% of the funds available to LEAs according to enrollment (public and private) and 30% for high-cost children. Once the funds reach a district, however, the "LEA is not required to spend the additional funds generated by 'high-cost' children on services to benefit those children" (NRG #128).

Chart II-2 shows how the state formulas are split between enrollment and high-cost criteria, and which high-cost criteria the states selected. The first column shows the federal Chapter 2 allocation to each state. The second column shows the percentage retained by the state for statewide programs. The third column shows how the local distribution formula is split between enrollment and high-cost children. The remaining columns show the variety of high-cost criteria selected and the percentage set aside for each. (State formulas are described and discussed in much more detail in Chapter V.)

Thus, the overriding concept in Chapter 2 is that all children have educational needs. The law is neutral about the kind of needs that should be recognized, or their relative urgency. It is entirely up to states, local districts, and private schools, to decide what their needs are and how to meet them within the very broad parameters of Chapter 2.

CHART II-2

CHAPTER 2 FORMULA: STATE COMPARISON 3/1/84

State	State Appropriation	State Set-aside	Percentage of Remaining Funds Distributed on Enrollment/Spec. Needs	Special Needs Distribution: Low Income	Sparse Population	Tax Effort	Limited English Proficiency	Gifted and Talented	Low/High Achievement	Desegregation	Handicapped	Other
AL	$ 7,633,794	10.0	80%/20%	8.0		2.0		10.0				
AK	2,187,360	20.0	30/70	25.0	25.0						20.0	
AZ	5,098,409	10.0	98/02	*	*			*				
AR	4,373,525	20.0	90/10	10.0								
CA	41,291,513	19.5	42/58	8.5	1.5		5.0			43.0		
CO	5,222,993	20.0	83/17	16.0	1.0							
CT	5,626,052	20.0	21/79	60.0						18.0		1.0
DE	2,187,360	20.0	70/30	10.0				10.0		.0	10.0	
FL	15,925,153	17.5	64/36						36.0			
GA	10,864,740	20.0	50/50	50.0								
HI**	2,187,360	20.0	100/0									
ID	2,187,360	20.0	85/15	10.0	5.0							
IL	21,163,056	20.0	70/30	30.0								
IN	10,582,428	20.0	83/17	15.0	2.0							
IA	5,330,630	20.0	75/25	20.0			5.0					
KS	4,129,341	20.0	88/12	9.0	1.0			.4			1.6	
KY	7,057,93.	20.0	84/16	7.0	7.0	2.0						
LA	8,545,996	20.0	85/15	10.0				.6			4.4	
ME	2,187,360	20.0	60/40	40.0								
MD	7,896,681	20.0	80/20	11.5							8.5	
MA	10,173,811	20.0	40/60	60.0								
MI	18,231,652	20.0	58/42		6.0				18.0	18.0		
MN	7,629,692	20.0	82/18	12.0	6.0							
MS	5,283,645	20.0	95/5	*	*						*	*
MO	8,895,073	20.0	78.5/21.5	18.5	3.0							
MT	2,187,360	20.0	71/29	9.0	2.0	18.0						
NE	2,861,216	20.0	75/25	5.0							20.0	
NV	2,187,360	20.0	90/10	10.0	*							
NH	2,187,360	20.0	50/50		*	*					*	
NJ	13,484,913	20.0	30/70	20.0				5.0	25.0	20.0		
NM	2,665,553	20.0	70/30		30.0							
NY	31,340,643	20.0	86.5/13.6		.3		.2		11.0	8.0		
NC	11,047,452	20.0	70/30	30.0								
ND	2,187,360	20.0	87/13	9.0	4.0							
OH	20,354,591	20.0	75/25	13.0	.04	10.0						1.6
OK	5,484,556	20.0	80/20	5.0	10.0						5.0	
OR	4,631,497	20.0	70/30	9.0	.5		2.5	4.0		7.0	7.0	
PA	20,966,546	17.0	60/40	35.0	5.0							
RI	2,187,360	20.0	60/40	23.0			6.0				11.0	
SC	6,203,610	20.0	70/30	30.0								
SD	2,187,360	20.0	90/10		5.0						5.0	
TN	8,578,920	20.0	88/12	12.0								
TX	27,672,974	20.0	73/27	15.0			5				7.0	.02
UT	3,088,956	20.0	77/23		*						*	*
VT	2,187,360	20.0	60/40	16.0	9.0	15.0						
VA	9,824,822	20.0	65/35	18.0					17.0			
WA	7,348,289	20.0	50/50	15.0			5.0	10.0		20.0		
WV	3,652,769	20.0	90/10	5.0							5.0	
WI	8,919,131	20.0	50/50	50.0								
WY	2,187,360	20.0	59/41	3.0	2.0	35.0		8.0				

* Distribution based on a weighted per-pupil formula that takes into account the high cost of educating special needs children.

** Hawaii has only one school district.

BEST COPY AVAILABLE

CHAPTER III: THE EDUCATION DEPARTMENT MONITORS THE STATES

Chapter 2 has allowed such a wide degree of latitude to states and local districts that questions have been raised regularly about responsibility and accountability. In 1984, the Education Department began a series of monitoring visits to SEAs to address issues like these:

- Have SEAs assumed the responsibility to monitor local programs for compliance with the law? Are their monitoring systems adequate to prevent abuse or improper implementation of the program? Do they gather sufficient information about the program?
- Do SEAs use their 20 percent share responsibly? Are there adequate fiscal and administrative controls over the state programs? Is there a strategy to evaluate state programs?
- Are State Advisory Committees consulted on an "active and continuing" basis? On funds reserved for state use? On state formulas? On evaluation?
- Are SEAs requiring LEAs to implement the requirement for systematic consultation with parents, teachers, administrators, and other groups? Are application assurances properly stated? Do monitoring instruments address this requirement?
- How are SEAs handling their responsibility to ensure that children in private schools are benefiting? Do SEA services reach private school personnel? Does the SEA assure equal per-pupil expenditures for private schools?
- How are SEAs monitoring private school use of Chapter 2 funds? Who is responsible for secular, neutral, non-ideological expenditures and use of equipment that benefits children, not the school?

Over the course of 1984, federal Chapter 2 staff visited 21 states, the District of Columbia, and Puerto Rico. The remaining states were scheduled for visits in 1985. The reports they issued attempt to assess whether the SEAs have adequate administrative and fiscal procedures to assure compliance with the broad purposes of the program and to prevent abuses, both in the SEA 20% program and in local districts. While no serious examples of abuse or non-compliance were found, the Education Department (ED) staff did identify some problems:

- Nineteen states (over 80% of those ED studied) did not adequately monitor local school districts for compliance with program provisions and proper use of funds.
- Twelve states did not have proper administrative or fiscal controls over the SEA 20 percent program.
- Six states did not adequately consult the SAC on major decisions or how the program should be evaluated. In three states, the SAC was inactive.
- In eleven states, there was inadequate monitoring of whether funds benefiting private school children were used for "secular, natural, non-ideological" purposes.
- In seven states, these was inadequate monitoring of whether private school funds were benefiting children rather than the schools.
- Nine states did not ask LEAs to provide information on the amount and use of funds for private schools.
- Twelve states did not take adequate measures to assure equal per-pupil expenditures for private schools.

Looking Back

Before we present our analysis of these reports, it is important to understand the administrative history of the program and the political climate surrounding it.

The problems the Education Department identified stem mainly from the law itself, which Congress enacted hastily in 1981, as part of the budget reconciliation process rather than through normal legislative procedure. The bill that became Chapter 2 was, consequently, never subjected to the kind of scrutiny and fine-tuning that passing through subcommittee, committee, and full floor consideration would have entailed. While some parts of the statute are extremely detailed, most notably the provisions guaranteeing services for private school children, many important areas are left vague or unresolved.

A significant one is the role of the SEA. The law gives SEAs "the basic responsibility for the administration of funds made available under this chapter..." (Sec. 561(b)), but goes on to caution that this responsibility be carried out "with a minimum of paperwork" and that the major responsibility for the design and implementation of programs rests with LEAs. Later, the law states that "(e)ach LEA shall have complete discretion, subject only to

the provisions of this chapter," in determining how to use its funds (Sec. 566(c)).

While the SEA is given the responsibility for "the administration and supervision" of Chapter 2 programs (Sec. 564(a)(1)), and the assignments to evaluate the effectiveness of Chapter 2 programs annually (Sec. 564(a)(5)) and conduct "financial and compliance audits" every two years (Sec. 1745), the extent of SEA authority is not clear, especially in light of the provision just cited that rests discretion at the local level.

The regulations do not attempt to clarify the SEA's position; in most sections, they simply repeat the law. In any case, the statute stipulates that the regulations do not have the force of law. For example, do SEAs have the authority to withhold funds from LEAs that have submitted inadequate applications or mismanaged funds?

One section states that any LEA submitting an application must receive its grant amount determined by state formula (Sec. 298.8 (2)), implying that SEAs may not hold up approval of LEA applications or withhold funds if they find an application unacceptable. Another section allows SEAs to "reallocate" Chapter 2 funds "that are recovered by the State based on a determination that the LEA has failed to spend Chapter 2 funds in accordance with applicable law" (34 CFR sec 298.9(a)(2), emphasis added). While states may recover funds found to be improperly used, it is not clear that SEAs may delay funds until they are assured that they will be properly used.

Or, for another example, may SEAs issue their own regulations and guidelines governing LEA use of Chapter 2 funds? Section 298.3(a)2) states that "an SEA may, in accordance with state law, adopt rules, regulations, procedures, guidelines, and criteria regarding the use of Chapter 2 funds..." but goes on to say "...provided that those rules (etc.) do not conflict with the provisions of Chapter 2; the regulations...or other applicable federal statues and regulations." This provision is immediately followed by the one cited earlier that allows complete discretion to LEAs. Not surprisingly, many SEAs have been reluctant to become the new "bad guys" by imposing additional regulation and paperwork.

During the months before the law went into effect (July 1982), the Education Department was flooded with questions from state and local administrators anxious for official guidance and standards. In October 1981, the Department issued a 19-page draft paper entitled "Questions and Answers

Concerning the Education Consolidation and Improvement Act, Chapter 2." This was the only "authoritative" source of information on the program its entire first year. It was not until July 1983 that the final "Non-Regulatory Guidance" (NRG) was issued; it is three times as long as the first document. But neither one mentions state monitoring responsibilities nor attempts to define "administration and supervision." Out of a total of 155 questions-and-answers, there are four on evaluation, nine on audits, and none on SEA authority. The section, "General responsibilities of State and Local Education Agencies" simply refers readers to the applicable sections of the law and regulations.

In November 1983, Congress passed a set of technical amendments to the program. To clarify that the SEA is responsible to approve LEA applications, Sec. 566(a) was amended to say that an LEA may receive funds only after its application "has been certified to meet the requirements" of the law. And, in a curiously backhanded way, the amendments introduced the concept of monitoring. In its application to the Education Department, an SEA must now assure that "apart from technical and advisory assistance and monitoring compliance with this Chapter, the SEA has exercised and will exercise no influence in the decision making process of LEAs as to the expenditures made..." (Sec. 9(b), emphasis added). As this report goes to press, there are no final regulations implementing this section.

In early 1984, the New Jersey Chapter 2 Coordinator asked the Education Department how it interpreted the "monitoring compliance" phrase in the technical amendments. In June, the Assistant Secretary for Elementary and Secondary Education responded: "by amending section 564... Congress has authorized monitoring as one function of an SEA's administrative and supervisory responsibilities". These "include ensuring compliance with the provisions of Chapter 2," but, "How an SEA ensures compliance is the SEA's decision." Although monitoring may be the best method for ensuring compliance, the new provision "does not specifically require monitoring. There may be other measures that an SEA can also utilize to ensure compliance" (the full text of the June 12, 1984 letter is in Appendix I).

It is not surprising, then, that state "administrative and supervisory" practice varies widely, or that SEAs did not interpret the passing reference to monitoring in the technical amendments as a mandate to conduct "site-visits" of LEA Chapter 2 programs. While some states have taken an

active role in implementing and overseeing the program, issuing guidelines to clarify vague areas, providing technical assistance, and visiting larger LEAs at least every 3 years, many others have interpreted the law and the Education Department's posture to mean that they should provide advice only on request and not interfere in any way with local implementation. The situatiton reflected in the monitoring reports, then, is not the result of incapacity in SEAs so much as it is the logical consequence of an uncertain federal policy.

The Turn of the Screw

In April, 1984, the American Association of School Administrators (AASA) published a report entitled Private School Participation in Chapter 2 of the ECIA. The study was based on a survey of 34 large school districts, and there were two major findings. The one most widely publicized is that private schools receiving Chapter 2 funds "frequently do not sign any statement of compliance" with federal civil rights laws. This raises additional questions about how well LEAs are monitoring private school benefits across the board.

The second finding, which is no less significant, is somewhat confused because it is based on an understandable misreading of the regulations. The AASA stated it this way: "Private schools which receive additional funds (above the basic per-pupil allocation) based on high-cost students enrolled in public schools often are not required to submit documentation in order to qualify for these funds" (p.8). The problem is the word "qualify." At the time AASA did its survey, it was under the mistaken impression that private schools were not entitled to funds the LEA received for "high-cost" children. While the statute (Sec. 586(b)) could be interpreted either way, the regulations state that in determining how to serve private school children, an LEA "may NOT take into account the extent to which children in private schools generated a portion of the LEA's allocation...(relating to high cost children);" (emphasis added, sec. 298.24(a)(2)(i)). The NRG also repeats this point (Question #128). While the Education Department has been reluctant to resolve other ambiguities in Chapter 2, it has always come down squarely on the side of equal per-pupil expenditures for private school students.

From the Education Department point of view, then, the AASA finding might be restated this way: contrary to the regulations, LEAs frequently do not

share their high-cost funds with private schools unless these schools have submitted proof that they serve high-cost students. The AASA report identified by name as many as 16 districts (nearly half their sample) that do not allot, or severely restrict the flow of, high-cost funds to private schools.

The Education Department's Findings in More Detail

The monitoring reports the Education Department sent to the states after completing a visit reflect its concern with the private school issue. Of the 87 separate program requirements identified as needing correction, 34 (39%) had to do with private school participation. The bulk of these (62%) concerned guarantees of maximum benefit (N=21), rather than controls over possible abuse (N=10).

CHART III-1

TYPES AND FREQUENCIES OF PROBLEMS IN CHAPTER 2 ADMINISTRATION

	No./% of States Cited
1. Public and Parent Involvement	
. SAC Consultation	6
. Public Information Requirements	3
. "Systematic Consultation" by LEA of Parents, Educators, Etc.	8
	13/56%*
2. SEA Controls for SEA Programs	
. Administrative Oversight	5
. Evaluation Strategy	6
. Audits	2
	12/52%*
3. SEA Monitoring of LEA Programs	
. On-site, Periodic Compliance Monitoring	11
. Audit Requirements	12
. Evaluation	2
. Application Information	6
	19/83%*
4. SEA/LEA Controls over Private Participation	16/70%
5. SEA/LEA Guarantees of Private Participation	18/78%

No. States + D.C. and P.R. = 23

* Because some states were cited on more than one topic, the totals given are smaller than the sum of states cited by topic.

What this means is that most SEAs were unable to demonstrate to the Education Department program staff that their administrative and fiscal controls were totally adequate to assure compliance and prevent abuse. Under the category of Public and Parent Involvement, the Education Department found that 8 states had not adequately consulted their State Advisory Committees (SACs) on major decisions, or on how the program should be evaluated; in 3 states, the SAC was inactive. Also, in 8 states, the SEA did not provide proper assurance that LEAs consulted with parents, teachers, administrators and other groups on major program decisions.

In SEA Controls for SEA Program, the Education Department found that 5 states had not designated a person, or unit, to oversee the SEA portion of the program; 6 states had no strategy for evaluating the SEA program, and 2 states had not fulfilled their audit responsibilities.

Under the category of SEA Monitoring of (LEA) Programs, the Education Department found that 11 states were not monitoring LEAs for compliance, (either too infrequently (N=1) or not at all (N=10)); 11 states had not fulfilled their LEA audit responsibility in some way; and 6 states did not require LEAs to give adequate information on how program funds are used.

Under the category of SEA/LEA Controls over Private Participation, the Education Department found 6 states where the use of benefits to private schools was not monitored (either by the SEA or the LEA) to assure they are "secular, neutral, and non-ideological," and 4 states where it was not assured that the benefits were for children, rather than for the school. (Other problems had to do with more technical controls). Although the Education Department was not looking for specific examples of non-compliance, the evaluators did find in at least 2 states private schools that were using Chapter 2-purchased computers to update alumni mailing lists and to arrange class schedules.

Under the category of SEA/LEA Guarantees of Private Participation, most difficulties centered around SEA (or LEA) failure to assure that per-pupil expenditures for private school children were equal to public-school children, and to consult with private school officials before making program decisions. They also found that 8 states did not request application information from LEAs on private school expenditures.

In their responses to the Department's reports, the SEAs have readily agreed to correct their procedures and to introduce appropriate controls.

The situation reflected in this report does not mirror the present; rather, it illustrates the difficulties that breed from lack of direction. The almost total lack of resistance to the Education Department's recommendations is a strong sign that they are sound, and probably welcome.

New Standards

Even a casual reader of the monitoring reports is struck by the unequivocal language justifying most of the important recommendations. Clearly the Education Department intended to set certain basic standards by which to judge the adequacy of an SEA's administrative apparatus. This is a marked departure from its earlier, more diffident posture. Several extensions of the regulations and the NRG deserve special mention, as they are, in effect, new federal policy. (The state reports where such extensions appear are indicated in parentheses.)

State Advisory Councils. To satisfy the requirements for "active and continuing" consultation, SACs must meet regularly. Sending out memos and updates with opportunities to comment, is not adequate (AZ). If an SEA makes major changes in its 20% program, or devises an evaluation strategy, a meeting of the SAC must be called so it can be consulted (SD, AZ). If the state legislature reappropriates Chapter 2 funds, or exercises the authority to approve SEA expenditures, the SAC still must be consulted before any plan is submitted to the legislature (MT).

Public Notice and Dissemination. Information on the state formula for LEA allocations and the SEA program must be disseminated "beyond the education establishment" (GA). Merely printing and making it available for the public record is not adequate (GA). Sending it out through a newsletter for teachers and principals also is not proper public notice (MN).

Audits: Section 1745 of the Budget Reconciliation Act requires both fiscal and compliance audits of SEAs and LEAs every two years. "There is no provision for the waiver of this requirement" (AZ). Since the audits do cover compliance, the auditors (whether state employees or independent CPAs) should be trained in compliance provisions (GA). Audit guides must include the requirement for systematic consultation with parents (AZ). (The technical amendments allow 5-year intervals for LEAs receiving less than $1,000.)

Monitoring. In addition to ensuring that audits are conducted, the SEA

must also monitor LEAs for compliance (OR). "It is our view that supervision includes preventing audit exceptions from occurring, and is carried out while funds are being expended. An audit is an after-the-fact determination of compliance that cannot correct the use of funds already expended" (AZ,MO, emphasis added).

The Education Department has defined monitoring as "on-site visits," "to conduct program reviews of all LEAs on a periodic basis" (AZ,MN). In states with large numbers of small LEAs (receiving less than $1000 a year), the SEA may devise alternatives to LEA site visits, including reporting results of other monitoring and holding regional workshops (MT). The recommended monitoring cycle is every 3 years (OK). To justify these recommendations, the reports say, "Congress, in enacting the Technical Amendments to Chapter 2, identified technical and advisory assistance and monitoring compliance as functions of an SEA's administrative and supervisory responsibilities" (MN).

Administration of the SEA 20% Program. If Chapter 2 funds are distributed to a number of different administrative units within an SEA, "it is recommended that the Chapter 2 unit collect monthly reports of expenditures of Chapter 2 funds" (GA). The administrative responsibility for the SEA program should include overseeing the "operations of funds expended for the activities being carried out" with Chapter 2 funds (NC).

Evaluation. "The evaluation requirements apply to both the state program and the LEA program. The statute further specifies that the SAC be consulted on the evaluation designed for state activities" (AZ). While this point is made in the NRG, there seems to be some confusion about it in the SEAs. The Education Department further recommends that to fulfill its evaluation duties, the SAC should "establish operating procedures and a system for documenting the proceedings" (AZ). This SAC consultation requirement means that the evaluation strategy should be given to SAC members for review and comment before it is put into effect (ND).

LEA Applications. The SEA should design the LEA application form so that it requires that expenditures be broken down by program under Subchapters A, B, and C (NM, DE, SD). (The point is also made in the NRG). It should also include information on the number of public and private school children participating so that that equal per-pupil expenditures requirement can be verified as part of the application review process (DC). In addition, the private school "objectives" and total allocation should be presented separately from public schools in the LEA application (SD).

Conclusion

It is typical for new federal programs to go through a testing period. At first, the rules are general and controls are loose. As critical reports are published and monitoring begins, standards develop ex post facto. By the time they are clearly formulated, state and local practice varies so widely that inevitably some of it is considered outside the pale.

This is, of course, exactly what has happened with Chapter 2. When it was enacted, the mood in Washington was reminiscent of the Cultural Revolution in China: let a hundred flowers bloom, let a hundred schools of thought contend. Remove the fetters of red tape and allow local communities to meet their needs creatively. While some have surely risen to the occasion, others have allowed the program to drift without direction.

Now it is time to tighten up. In monitoring the SEAs, the Education Department staff was playing its appointed role in the drama, setting some clear standards for performance that all can recognize and live with. Ironically, within Administration councils, the Education Department can justify compromising its policy of non-interference by pointing out that it must ensure that states provide maximum benefit to children in private schools.

To their credit, SEAs have negotiated the Chapter 2 straits forcefully and often very well. There is no example yet revealed of gross mismanagement or incompetence; many have used their independence with relish and good judgment. Twenty years ago, one could argue that SEAs were not capable of administering block grants. Today, few would question their capacity.

CHAPTER IV. CRASHING THE PARTY: PARENT AND PUBLIC INVOLVEMENT IN CHAPTER 2

The provisions for parent and public involvement in Chapter 2 are more sweeping than in the earlier (usually called "antecedent") programs: State Advisory Committees review state distribution formulas and the SEA programs; LEAs must provide for "systematic consultation" with parents and others on all major program decisions. This is a large and substantial role that applies to the entire program, as opposed to the sometimes more detailed but far more piecemeal requirements of the old programs. What has been the effect of this change on the program, and on public involvement in education? This chapter will address this question, after first examining one that is more basic.

Why is Public Involvement Important?

During the course of this project, NCCE has often been asked why we are concerned about such a "minor detail" of a relatively small program. Why should educators have to consult parents or citizens about their professional judgment as to what their state or local school district needs? What constructive role could parents play in a program that, essentially, purchases materials?

As we see it, Chapter 2 has two purposes: consolidation, with its attendant benefits of reduced paperwork and administrative simplicity, and improvement, with its emphasis on educational needs and priorities. From the research, it is abundantly clear that parent involvement improves student achievement. Where the community is actively involved in the life of the school, and when the school is a center of community activity, children do better in school and go to better schools.* This idea is fundamental to our system of local lay control of education and is reflected throughout the Chapter 2 statute, most clearly, perhaps, in its statement of purpose: "...the responsibility for the design and implementation of programs assisted under the chapter shall be mainly that of local educational agencies... because they have the most direct contact with students and are most directly responsible to parents" (Sec. 561(b)).

There is another, more practical reason to involve parents and the public

* See NCCE's, Parent Participation and Student Achievement: The Evidence Grows, 1981, an annotated bibliography of research on this topic.

in Chapter 2 decisions: to build support for the program. The antecedent programs were each geared to small but organized constituencies-- gifted and talented, community education, arts in education, and so on. Chapter 2 has no stable base of support (except perhaps for the private school community), and one will not develop just because of reduced paperwork. The program has to serve the school community--and that means parents, students, and other residents--in visible, effective ways, or no one but a few educators will try to save it if it is threatened by budget cuts or new initiatives.

State Advisory Committees--High Marks So Far

While the record of State Advisory Committees (SACs) is mixed, there is little doubt from our research and other reports that, overall, they have made a significant contribution to the program.* Where states faced huge cuts in funds for urban districts, SACs helped beleaguered SEAs design local aid formulas and state programs that accommodated warring interests and eased the transition. In states with newly elected governors, the opportunity to appoint a Chapter 2 SAC helped to convey the chief executive's educational agenda to the SEA. In other states with active, hard-working SAC members, new energy was brought to bear on bristly state issues.

During the first year, SACs and the state education agencies they were to advise were sometimes at loggerheads. SEA staffing and resource arrangements--which had developed for years under the antecedent programs with rather little public scrutiny--were suddenly called into question by SAC members. Some SACs also discarded the SEA's carefully worked out, computerized formula proposals and demanded elaborate justifications for state programs or formula criteria. To seasoned SEA staff, SAC members seemed like upstarts with limited authority and an exaggerated sense of importance. On the other hand, SAC members reported some frustration with SEAs. Meetings were often called late in the season and dominated by SEA staff. SAC members were dependent on the SEA for information, staff resources, and meeting space. There were few precedents to go by and little guidance to be had.

Despite these impediments, most SACs managed to work well with SEA staff and contribute to the State Chapter 2 program design. Over time, many have

* The data reported in this section are drawn from NCCE's survey of state Chapter 2 directors.

developed strong collaborative relationships.

One major reason that SACs have been effective advisory bodies is that they are composed largely of professionals with strong ties to education. The average SAC is chaired by a local school superintendent, usually from a prominent district in the state, and looks like this:

2 State Legislators, one from each House, members of the Education Committees
2 Local School Board Members
4 Local School Superintendents (from a variety of districts), one is the Chairman
1 State PTA President
2 Parents (not connected to a parent organization)
2 Private School Directors
2 Professors of Education Administration (from a State University or Teachers' College)
3 Teachers (representing the teacher organizations)
2 Prominent Citizens
20 Members

Because Chapter 2 operates in 3-year cycles, the greatest activity took place in the first year, when the state formula and SEA program had to be devised, and an application sent to the Education Department. Most SACs did not convene until early March, 1982, to work on the formula and state application due in Washington by June. They met two or three times, devoting most of their sessions to the local aid formula, with little time left for a review of the state 20 percent program. About half divided into subcommittees to work on different aspects of the program; when they did, the SAC recommendations tended to be more detailed and informed.

Most SEAs had specific formula proposals prepared for the first SAC meeting. In nearly every state, the SAC made some change in these proposals. In 17 states, the SAC substantially revised the SEA proposal or wrote its own formula; in 26 states, the SAC made relatively minor changes; and in only 7 states did the SAC adopt the entire SEA proposal.

A question arises: Did the formulas the SEAs submitted to the Education Department differ in any way from the formulas recommended by the SACs? The

answer, generally and substantially, is no. In 44 state applications the formula is identical to the SAC approved formula. In the remaining states, the legislature intervened (AZ, FL), the Education Department required some technical changes (CT, VT), or the SEA made a minor change.

The pattern was similar for the SEA 20 percent program, on which the SAC is authorized to make recommendations. Because of the large funding cuts in federal domestic programs that fiscal year, most SEAs were able fairly easily to persuade SACs of their need to retain the full 20 percent: in 46 states, the SEA recommended that 20 percent be set aside, and the SAC concurred. (In Arizona, the state legislature overruled the SAC and reduced the amount to 10%.)

Most SACs did raise questions about how the 20 percent (in the average state, nearly $1.5 million) was to be spent. In 17 states, the SAC substantially modfied the SEA's proposals, often recommending that a competitive grant program be created or that more direct services be provided to local districts. In 22 states, the SAC approved the SEA proposals with some discussion but no changes. And in 11 states, the SAC asked the SEA to determine how best to use the funds.

Sizing up the SACs: Good News

State Advisory Committees have had the most to offer in states that lost funding, and in states where several urban districts had been receiving large ESAA grants. For other states where the change was not difficult to manage, SEA staff did not need as much help. Whether SACs there played an effective role depended on the stature and energy of their members rather than the challenge of the moment.

The size of our country, the complexity of its federal structure, and the democractic bent of its political culture, seem to beget devices to short-circuit administrative procedure, to bring constituents into immediate contact with decision-makers. Advisory committees are one such arrangement. As a mechanism for public involvement they have several advantages: they are inexpensive (members typically are unpaid and reimbursed only for expenses); selection procedures are simple; they provide immediate feedback; and they have a legitimizing effect.

But do SACs really work to make federal programs (or other institutions) more responsive to those they serve? The opinions vary. In the case of Chapter 2, there is much good news:

- The SAC recommendations on local aid formulas and state use of 20% funds were accepted as final nearly everywhere. In the few states where changes were made, they were relatively minor and imposed by a "higher authority" such as the State Legislature or the Education Department. In no case did an SEA disregard the SAC's advice.
- Nearly all states met the basic requirements set by the law for public involvement. SAC meetings were announced in advance, open to the public, and recorded in minutes.
- Most states (43) went beyond the minimum requirements and held hearings or public sessions to receive comment. Nearly all provided some advance public notice and distribution of information.
- Nearly all states allowed a public comment period before sending applications to the Education Department.
- Nearly half the SACs (23) established subcommittees, which allow members to work more closely on different aspects of the program. In general, SACs with subcommittees are stronger than those without them.
- Nearly all SAC members are reimbursed for expenses (45 states).
- The Education Department, in its monitoring of 21 state programs, found that most SEAs had SACs functioning as intended by the law.

The down side is less substantial. In the first year, the SACs had an average of only 3 months to make a series of very important decisions; now that they are more established, they probably will take more time to plan for the next program cycle. Many of the hearings were not sponsored by the SAC, but by the SEA, although SAC members did attend. And the Education Department found that in six of the 21 states they monitored in 1984, the SAC was not being consulted on all areas of the program, especially the evaluation of the state 20 percent set-aside. These findings are now being corrected.

Local Public Involvement in Chapter 2

While the law is quite specific about public involvement in Chapter 2 decisions at the state level, there is only a single requirement at the local level: that LEAs provide for "systematic consultation" with parents, teachers, administrators and "other groups" about the allocation of funds, and about the design, planning and implementation of programs. The form this

consultation should take is deliberately left unspecified, both in the law and the regulations.

There is very little data available on the extent and type of public involvement in local Chapter 2 programs. In the first year, articles, interviews, and anecdotal reports suggested that many districts thought local school board approval of their Chapter 2 application would satisfy the parent consultation provision. After NCCE questioned Education Department Chapter 2 staff about whether this interpretation was adequate, the NRG was revised to provide some additional guidance. "Systematic Consultation" is defined as "an ongoing process that is open to all interested persons and is calculated to provide advice within a time frame that can affect the ultimate decision" (NRG #32). Because "meaningful parent involvement requires information upon which to base that involvement, LEAs may wish to consider providing parents...in an ongoing, timely, and adequate manner--proposed and final project applications, needs assessment documents, project plans, budgetary information, evaluation data, local, state and Federal laws, regulations, and guidelines, and any other Chapter 2 information needed for full, effective parent participation" (NRG #33).

To the direct question of whether school board deliberations constitute "systematic consultation," the NRG responds: "Although the form of consultation is a matter for local decision, Congress appears to have contemplated additional consultation beyond, or supplemental to, standard local practice exemplified by school board meetings. If an LEA does choose to make the local school board the vehicle for such consultation, Chapter 2 should be a standing item on the board's agenda for all public meetings" (NRG #34).

Most SEAs require local districts to assure in their Chapter 2 applications that they have provided for systematic consultation with parents, but do not require them to describe how they plan to do it. About a dozen states have established guidelines beyond the assurance requirement (New Mexico, for example, requires a parent advisory committee), but half of these say that the guidelines are "non-binding recommendations." Most states do request that LEAs keep documentation on how they consulted parents, and say they plan to monitor local compliance.

When the Education Department visited the states, it found that 8 of the 21 did not properly communicate the parent involvement requirements to LEAs.

Typically, the problem was that the assurance question on the LEA application form was incomplete, requiring, for example, only that LEAs assure that parents were consulted "in the development of this application." The difficulty is compounded by the Education Department's further finding that half the states it visited do not have adequate compliance monitoring systems. Even if LEAs do understand their responsibility to consult with parents, they may not have been monitored to see if they are properly carrying it out.

The only published study on local parent involvement in Chapter 2 was conducted by the National Council of La Raza, in 30 districts that are predominantly Hispanic or have large Hispanic populations.* (The National Study of Chapter 2 commissioned by the Education Department is taking a fairly extensive look at this subject, but the data are not yet available.) Most of the districts were in the Southwest, especially California and Texas, and some are among the largest in the country.

La Raza began the study to monitor whether Chapter 2 was being used by local districts to serve the needs of Hispanic students, and whether districts are keeping data that would be helpful to the community in evaluating the program. In only 16 of the districts were Hispanic community members or groups able to obtain answers to these questions; even in those cases, they were able to get the information only with difficulty. In one large southwestern city, administrators and teachers who tried to respond were threatened by their superiors with disciplinary action if they released any information. In other districts, administrators denied that they had the information requested or said that access to the data was restricted.

La Raza also found a great deal of confusion among school administrators about Chapter 2 requirements. Most districts in the study did not keep track of the type of children being served by Chapter 2 programs, or of the services provided to private schools with Chapter 2 funds. Also, most district administrators mistakenly believed that parent participation in the program is optional, not required.

The probability is that local practice varies widely. An analysis of New Jersey's Chapter 2 evaluation report, which is based on responses to an SEA survey that covered parent involvement, shows that most local districts

* Community Access to Information on Education: A Case Study on the Education Block Grant, NCLR, Washington, D.C. September 1984.

consult with parents informally, through existing mechanisms. The most common approaches were: through PTA meetings, where parent suggestions about types of computers or instructional materials to buy were often solicited; through existing advisory committees (such as basic skills, Chapter 1, library service), where agenda items might address needs of different constituencies; or through the annual parent survey, where questions are asked about district needs or priorities. In only a small percentage of districts (about 5%) were advisory committees established to consult on Chapter 2, or existing groups formally designated to serve as the vehicle for participation. While there is some "consultation" of parents, it tends to be informal, partial, and ad-hoc, not at all "systematic."

Much more common is a lively internal debate among district staff and, occasionally, building principals, over how to use Chapter 2 funds. Once the decision is made, it may be announced to parent-teacher groups (who are asked about which materials are best, rather than whether they are needed) and ratified by the school board. Few districts have used the Chapter 2 planning process as a vehicle for assessing, and then meeting district needs. In most cases, the grants are seen as too small to warrant the time and trouble.

Prospects for Success

Because most local Chapter 2 programs are small in scale ($5-$10 a child), significant parent/public involvement is a better prospect in larger districts and at the state level. An advisory committee, composed of the major educational interests--teachers, administrators, SEA/LEA staff, parents, students (when appropriate), private school representatives, and major civic and business groups--is often an optimum arrangement. Our observations and data identify several elements of success for these groups:

Strong advisory committees:

- select their own Chairperson and determine their own meeting agendas;
- establish standing subcommittees around their areas of authority (e.g. program design, allocation of funds, planning, implementation), which meet regularly and report to the full committee;
- hold open meetings and keep detailed minutes, with recorded votes and dissenting opinions;

- determine their own regular schedule of meetings rather than convening at the call of the agency they advise, and communicate during the interim; they also meet frequently enough to develop good working relationships and to deal adequately with major issues;
- develop strong relations with SEA/LEA staff, beyond the Chapter 2 Coordinator, and ask for regular reports and updates;
- feel free to raise concerns directly with state or local board members, state legislators, members of Congress, other state and local officials, and interest groups not represented on the committee;
- keep in close touch with other Chapter 2 and related advisory groups. SAC members are involved in their home district's program; local advisory committee members are in contact with the SAC and neighboring district committees;
- invite the press to important meetings, issue their own press releases when appropriate, and publish reports of their findings and activities;
- develop a clear sense of purpose and mission, and stick to it.

The "do your thing" aura of Chapter 2 has a distinctly down side. Once decisions have been made about how to spend and whom to serve, they have to be defended. Inevitably, auditors, reporters, researchers, advocates, and bureaucrats come around asking questions. Later, congressional hearings are held.

There may be many justifications for selecting this program or that; there may even be data that show some improvement; but the most responsible and readily accepted reason is that "we did what our community wanted us to." Any state or local school district with a strong process for determining its community's needs and priorities, and a program that is responsive to them, can demonstrate without fear of serious challenge the ways in which Chapter 2 has contributed its educational program.

CHAPTER V. OTHER MAJOR ISSUES

The other major issues in Chapter 2 revolve around money--who gets how much, how it is spent, and whether the rules should be changed. Because most of the funds go to local school districts, there has been an extensive debate over the state formulas that distribute the local share--should they target funds on the neediest school districts or should they distribute them mainly by population? Should they be further adjusted to help districts with desegregation programs? (Curiously, there has been little discussion of the national formula, which allocates funds to states strictly according to school-aged population.)

Questions have also been raised around how much state education agencies should keep for their own programs, and whether those programs should benefit local districts. And another set of concerns has arisen over the third major beneficiary of Chapter 2 -- children in private schools: should the federal government provide aid that indirectly benefits private schools? To what extent?

State Chapter 2 Formulas

Under Chapter 2, a state may reserve up to 20% of its grant for state-level programs, then it must devise a formula to distribute the remaining 80% to local school districts. While the law allows a great deal of latitude to the states, the formulas must be based on "the relative enrollments in public and non-public schools within the school districts," and "adjusted, in accordance with criteria approved by the Secretary, to provide higher per pupil allocations to local education agencies which have the greatest numbers or percentages of children whose education imposes a higher than average cost per child..." (Sec. 565(2) emphasis added). Examples of "high-cost children" are those from low-income families, those living in economically depressed areas, and those living in sparsely populated areas.

The regulations do not address the question of whether "high cost" funds must be targeted on districts with concentrations of such children. They do, however, interpret the law to mean that all districts must receive some funding: "The Secretary interprets Section 565...to require a State to provide an allocation to an LEA otherwise eligible even though it has no

'high-cost' children" (Sec. 298.8(c)). This means that a state may not design a formula that sends Chapter 2 funds only to certain districts. The regulations also say that the Secretary will approve a state formula if it is "reasonably calculated to produce an equitable distribution of funds..." consistent with the law (Sec. 298.8(d)).

The draft NRG (October 1981) that was available during the period in which state formulas were being developed does not address the targeting question, either. It gives additional examples of "high-cost" children (handicapped and limited English-speaking), pointing out that the list of examples is not an inclusive one (NRG #7), and says that the Secretary will review each State's proposed formula on its "individual merit" (NRG #9). The NRG does not ask SEAs to submit a rationale for the formula selected, or any supporting data.

The final NRG (July 1983), issued a year after the law went into effect, interprets the law to mean that states do not have to target their high-cost aid only to districts with the greatest portion of high-cost children:

> In implementing this provision, an SEA has a number of options. It may adjust its formula so that any LEA having "high-cost" children receives a higher per-pupil allocation than LEAs with no "high-cost" children. The SEA may also adjust its formula so that not all LEAs having "high-cost" children receive higher per pupil allocations. Additionally, the SEA may adjust its formula so that all LEAs receive additional funds generated by "high-cost children according to the number of such children present in each LEA. Other options may be available.
>
> (NRG #47)

Again, no written justification or supporting data are requested.

As it happened, the states had already used all three options. The average state reserved 20% for state programs and passed 80% on to local districts. Of the 80% for local aid, 70% was distributed according to relative enrollment in public and private schools, and 30% was distributed according to high-cost children. Most states (N-32) did not define their high-cost criteria to eliminate districts with a small portion of such children; instead they sent the high-cost funds wherever the children were.

Chart II-2, on page 19 in Chapter II shows how the state formulas are split between enrollment and high-cost children, and which high-cost criteria the states selected.

Chart V-1, on the following page, shows the total number of districts

CHART V-1

CHAPTER 2 FORMULAS: SPECIAL NEEDS TARGETING 3/1/84

State	Enrollment/Special Need Split	Total # LEAs Participating	Low-Income	Sparse Population	Tax Effort	Limited English	Gifted and Talented	Low Achievement	Desegregation	Handicapped	Other
			Percentage of LEAs Receiving Funds for High-Cost Children								
AL	80/20	128	19%		12%		100%				
AK[1]	30/70	52	96%	79%						96%	
AZ[1]	98/02	162	100%	65%			100%	100%			
AR	90/10	370	55%								
CA	42/58	1050	48%	57%		40%			3%		
CO	83/17	181	75%	50%							
CT	21/79	165	25%						2%		2%
DE	70/30	19	90%				90%			90%	
FL	64/36	67						100%			
GA	50/50	189	100%								
HI	100/0	1									
ID	85/15	118	100%	43%							
IL	70/30	1004	99%								
IN	83/17	305	24%	31%							
IA	75/25	442	39%			38%					
KS	88/12	319	98%	13%			99%			99%	
KY	84/16	183	29%	34%	5%						
LA	85/15	73	97%				97%			97%	
ME	60/40	283	99%								
MD	80/20	24	100%							100%	
MA	40/60	365	99%								
MI	58/42	573		61%				11%	2%		
MN	82/18	436	99%	53%							25%
MS	95/5	157	20%	20%						20%	20%
MO	78.5/21.5	554	33%	11%							
MT[1]	71/29	554	21%	54%	14%						
NE[1]	75/25	1043	31%							71%	
NV	90/10	17	94%	*							
NH	50/50	158		*	*						
NJ	30/70	597	26%				81%	98%	12%		
NM	70/30	89		94%							
NY	86.5/13.6	711		20%		19%		99%	.01%		8%
NC	70/30	150	95%								
ND	87/13	297	74%	60%							
OH	75/25	759	20%	1%	10%						12%
OI	80/20	570	100%	100%						100%	
OR	70/30	313	92%	21%		27%	28%		.1%	85%	
PA	60/40	504	99%	30%							
RI	60/40	46	22%			24%				28%	
SC	70/30	99	62%								
SD	90/10	195		7%						100%	
TN	88/12	151	100%								
TX	73/27	1004	98%			*				*	*
UT	77/23	40		65%						100%	100%
VT	60/40	251	39%	35%	35%						
VA	65/35	139	59%					48%			
WA	50/50	300	99%			38%	98%		1%		96%
WV	90/10	58	100%							100%	
WI	50/50	432	99%								61%
WY	59/41	27	100%	67%	44%		33%				

[1] Estimates; not official figures

* Factor formulas using an adjustment; data not available on # LEAs.

participating in Chapter 2 for each state, and the percentage of local districts receiving aid under each of the high-cost criteria selected. Arizona, for example, sends out 98% of its local aid according to each school district's enrollment. The remaining 2% is distributed for low-income, gifted, and low-achieving children, and children who live in small districts. The formula is designed so that on top of their basic allocations, 100% of the districts receive a small amount of extra aid for poor, gifted, and low-achieving children, and 65% of the districts receive extra aid because they have fewer than 500 students.

At the opposite extreme, Connecticut distributes only 21% of its local aid according to enrollment. The remaining 79% is highly targeted to districts with above average concentrations of children from welfare families (25%) and to districts with desegregation programs (4%).

When Congress passed Technical Amendments to Chapter 2 in November, 1983, the conference committee appointed to adjust the differences between the House and Senate versions attempted to clarify this point:

> It is the intent of the conferees that section 565(a)... be interpreted such that state Chapter 2 distribution formulas provide adjusted allocations to local education agencies with only the greatest numbers or percentages of high-cost children rather than allocations to LEAs with any number or percentage of such children. (Conference Report on H.R. 1035, ECIA Technical Amendments, emphasis added).

According to our survey data, only 17 states now target their high-cost aid to districts with high numbers (or percentages) of needy children. The eligibility criteria vary widely, of course; many states used state averages as the departure point (districts with above average percent of Title I children, for example); others defined high-cost criteria restrictively (districts with fewer than 350 students). Chart V-2 describes their high-cost definitions briefly. The first column shows the percent of aid that was set aside for each high-cost factor, the third column gives the percent of districts in the state that receive funds for that factor.

The 32 states that do not target high-cost aid fall into two categories: those that target aid for some, but not all, their high-cost factors (N=17); and those that do not target any aid (N=15). By definition or happenstance, some high-cost criteria are automatically exclusive: sparsity (small, sparsely settled, or isolated school districts), tax effort (districts with

CHART V-2

STATES THAT TARGET ALL AID TO HIGH-COST CHILDREN (N=17)

State	% Set Aside	Eligibility Criteria	% LEAs Aided
AR	10.0	LEAs with Lowest Resources	55%
CA	43.0	LEAs with desegregation plans	3
	1.5	Small LEAs ($2500 floor)	57
	8.5	LEAs with above-average # AFDC children	48
	5.0	LEAs with limited English-speaking population	40
CO	1.0	Small or rural LEAs	50
	16.0	LEAs with > 15% children in free-lunch program	75
CT	60.2	LEAs with high concentration of AFDC children	25
	18.2	Children in magnet schools	2
IN	15.0	LEAs with > 15% children in free-lunch program	
	2.0	LEAs with ≤ 12 students per square mile	31
IA	20.0	LEAs with > average # Title I children	39
	5.0	LEAs with minority language children	38
KY	7.0	LEAs with > average Title I children	29
	7.0	LEAs with ≤ 6 students per square mile	34
	2.0	LEAs with > average tax effort, < average PPE	5
MI	18.0	LEAs with below average scores on MEAP	11
	18.0	LEAs with desegregation plans	2
	6.0	LEAs with < 31.5 students per square mile	61
MS	5.0	LEAs with highest % of high-cost students (based on state equalization formulas)	20
MO	3.0	LEAs with < 350 students	33
	18.5	LEAs with > 10% AFDC children	11
MT	9.0	LEAs with > 10 Title I children	21
	2.0	LEAs with < 100 Students	54
	18.0	LEAs with high tax effort, low PPE (sliding scale)	14
ND	9.0	LEAs with > 10 Title I children	74
	4.0	LEAs with ≤ 1 student per square mile	60
OH	10.9	LEAs with tax rate 10% > average, < average/ revenue/child	10
	13.65	LEAs with > average # Title I children	20
	.03	LEAs with ≤ 100 students	1
	1.55	Children in special schools	12

RI	23.0	LEAs in top ¼ AFDC Children	22
	11.0	LEAs in top ¼ handicapped children	28
	6.0	LEAs in top ¼ limited English speaking children	24
SC	30.0	LEAs with ≥ 30.2% (or 2250) Title I children	62
VT	15.0	LEAs with > average tax rate, < average PPE	35
	16.0	LEAs with ≥ 20% (or 100) low-income children	39
	9.0	LEAs with small schools	35
VA	17.9	LEAs with ≥ 21% Title I children	59
	17.3	LEAs with ≥ 25% scoring below grade level	48

above average tax rates and below average per-pupil expenditure (PPE)), limited English proficiency (or minority language children), and desegregation effort (districts with approved plans for magnet schools). There are several states that target only for the sparsity factor and not for the others (Arizona, Arkansas, Idaho, Kansas, Pennsylvania, South Dakota, and Utah). Chart V-3 describes the high-cost criteria for states that target some aid, and Chart V-4 describes the criteria of states that do not target aid at all.

The conference report does not amend the law, but it does refute the Education Department's interpretation of the law. Actually, the law itself is quite clear: formulas are to be adjusted to provide higher per-pupil allocations to local districts with the "greatest numbers or percentages" of high-cost children. If the law had intended that funds be directed to high-cost children wherever they live and in whatever proportion, the law would have been worded differently. The proposed regulations for the Technical Amendments did not address this issue; many comments were sent in asking for clarification. The final regulations have not been issued. If the Department allows its earlier, incorrect interpretation to stand, it will have a difficult time defending that position before Congress. If states that do not target funds fail to change their formulas, they may be vulnerable to lawsuits, regardless of the Education Department's position.

Other Formula Considerations

Comparing state formulas is a slippery task. States have defined "greatest numbers or percentages" based on 50 different scales of magnitude. South Carolina defines districts with 30.2% or more children in Title I/Chapter 1 programs as having the greatest numbers of high-cost children, while Montana says districts with more than 10 such children are eligible. The differences are greatest in criteria of sparsity, or small size, which Michigan defines as 31.5 students per square mile, and Kansas as .75 students per square mile.

The most obvious distinguishing feature of a state formula is, of course, how much is set aside for high-cost children in the first place. While the average state allocates 30 percent for high-cost children, the range is large, from Arizona's 2 percent, to Connecticut's 79 percent. Some states have chosen to reserve smaller amounts of high-cost aid but to target it on

CHART V-3

STATES THAT TARGET AID FOR SOME HIGH-COST CHILDREN (N=17)

State	% Set Aside	Eligibility Criteria	% LEAs Aided
*AZ[1]	2.0	Title I-eligible children	100%
		Low and High Achieving Children	100
		LEAs with < 500 students	65
AL	2.0	LEAs with > average tax rate; < average PPE	12
	8.0	LEAs with > average Title I students	19
	10.0	Children scoring > 85% on CAT	100
*AK	24.5	Title I-eligible children	96
	20.0	Handicapped children	96
	26.0	Small LEAs (sliding scale)	79
*ID	10.0	Children in free-reduced price lunch program	100
	5.0	LEAs with < 600 students	43
*KS	9.0	Title I children	98
	1.0	LEAs with ≤ .75 students per square mile	13
	1.6	Handicapped children	100
	.4	Gifted children	100
MN	6.0	Title I children	99
	6.0	LEAs in economically depressed areas	25
	6.0	LEAs with ≤ 5 schools per square mile	53
NJ	20.0	LEAs with economic need	26
	25.0	Children needing Basic Skills Remediation	98
	5.0	Gifted Children	81
	20.0	Children in desegregating schools	12
NY	8.2	Children with special education needs	99
	4.9	LEAs with > 30% special needs children	8
	.2	Children with limited English	19
	.3	Small LEAs (sliding scale)	20
	8.0	Children in magnet schools	.01
NE	20.0	Handicapped children	77[2]
	5.0	Title I children	31
OR	9.4	Title I students	92
	.4	Small, sparsely settled LEAs	21
	6.8	Handicapped Children	85
	6.9	LEAs with desegregation plans	.1
	2.6	Children in limited English programs	27
	3.9	Children in Gifted programs	28
*PA	35.0	Children from AFDC families	99
	5.0	Small LEAs (sliding scale)	30

SD	5.0	Handicapped children	100
	5.0	Small, sparsely settled LEAs	7
TX[1]	14.5	Title I students	99
	.02	Neglected and delinquent children in institutions	NA
	5.1	Children with limited English	40
	7.7	Handicapped children	99
*UT	1.3	Small LEAs	65
	8.6	Handicapped children	100
	.5	Youth in custody	100
	3.0	Vocational education students	100
	6.8	LEA professional staff costs	100
	3.0	Students in special-purpose programs	100
WA	15.0	Title I students	99
	10.0	Minority population	96
	10.0	Gifted children (3% LEA enrollment)	98
	10.0	Racial isolation	1
	5.0	Children with limited English	38
WI	25.0	Title I students	61
	25.0	Low-income children (census data)	99
WY	35.0	LEAs with > average tax rate; < average PPE	44
	3.0	Title I students	100
	2.0	Small, isolated schools	67
	1.0	LEAs with $\geq$ 5% gifted children	33

---

[1] These figures are not official, but based on estimates.

[2] Unofficial estimates. Nebraska has 1043 school districts; some are so small they have no needy children.

* States targeting only for sparsity.

CHART V-4

STATES THAT DO NOT TARGET HIGH-COST AID

(90% OR MORE OF ALL LEAS RECEIVE ALL HIGH-COST AID) (N=15)

State	% Set Aside	Eligibility Criteria	% LEAs Aided
DE	10.0	Children from AFDC Families	90%
	10.0	Handicapped children	90
	10.0	Gifted children (scoring 98th percentile)	90
FL	36.0	Children scoring _ 25% state test	100
GA	50.0	Low income children (AFDC/reduced and free lunch)	100
IL	30.0	Title I children	99
LA	4.4	Handicapped children	97
	10.0	Title I eligible children	97
	.6	Gifted children	97
MA	60.0	Children from AFDC families	99
MD	11.5	Title I-eligible children	100
	8.5	Handicapped children	100
ME	40.0	Title I-eligible children	99
NV	10.0	Title I and AFDC children, adjusted for sparsity and tax effort ($3000 floor)	94
NH	50.0	Handicapped children, tax resource base, low/high density population (1 factor)	100
NM	30.0	Small, isolated LEAs (sliding scale; $3,000 floor)	94
NC	30.0	Children in free lunch program	95
OK	5.0	Title I children	100
	5.0	Handicapped children	100
	5.0	Small LEAs (sliding scale)	100
	5.0	Sparsely settled LEAs (sliding scale)	NA
TN	12.0	Children below poverty level (census)	100
WV	5.0	Handicapped children	100
	5.0	Title I children	100

(Hawaii has only one school district; therefore, it is not required to have high cost factors.)

the neediest districts, while other states have chosen to reserve larger amounts but to spread it over nearly all districts. What this means is that a state targeting its high-cost aid may not be delivering a greater amount per needy child than a state sending the aid to all districts. Massachusetts allots $23.00 per low-income child to 99 percent of its LEAs; Ohio allots $11.20 per low-income child to 20 percent of its LEAs. The difference is that Massachusetts set aside 60 percent for low-income children while Ohio set aside only 13 percent.

If we look at all the states that selected low-income children as "high-cost," we can compare those targeting aid with those that do not:

	Average Set Aside	Average Amount per Low-Income Child	Average No. LEAs Funded
Targeting States (N=17)	18%	$ 9.71	40%
Non-Targeting States (N=26)	20%	$11.10	98%

The same pattern appears in set-asides for gifted children:

	Average Set Aside	Average Amount per Low-Income Child	Average No. LEAs Funded
Targeting States (N=3)	3.3%	$10.66	47%
Non-Targeting States (N=5)	6.2%	$12.57	97%

(Charts in Appendix I show the amounts per high-cost child by state, and compare the types of high-cost weightings used.)

Obviously, states have to make tradeoffs when they design Chapter 2 formulas. The pressure is usually stronger to spread the aid out rather than restrict it to certain districts. The minutes of the Massachusetts Chapter 2 State Advisory Committee make this point well: the members decided that if they were to distribute 60 percent of local aid according to numbers of low-income children, they had better send it to all the districts. Another option used by many states is to select several high-cost criteria, so that one way or another, all districts are eligible for some high-cost aid.

While Congress may have intended that more Chapter 2 funds should compensate districts for the higher educational costs of certain children,

the Technical Amendments may not have that effect. States are still free to decide how much to allocate for high-cost children; they may opt to set less aside if high-cost funds cannot be sent to all districts.

Also, as the saying goes, "there is many a slip twixt the cup and the lip." There is no requirement in the law, regulations, or anywhere else, that local districts have to spend the funds on the children who attracted the funds. The formula is an allocation device, not a spending mandate. Its purpose is to provide some additional aid to districts with high-cost children, not necessarily so that the districts may mount programs for those children (although they have that option), but rather so that the districts' capacity to serve all children is enhanced.

Certainly the many and various states in this country have vastly different needs and priorities. Allowing them considerable flexibility to design local aid formulas seems like sensible public policy. The trick is to devise criteria for determining whether, as the regulations put it, a formula is "reasonably calculated to produce an equitable distribution of funds." At the present time, the SEAs do not have to provide the information that would allow such a determination to be made, nor do the regulations define "reasonably calculated" and "equitable".

In a paper written for the Illinois State Board of Education, the Center for the Study of Educational Finance at Illinois State University proposed a state formula related entirely to the capacity of districts to meet the needs of children. Funds would be distributed inversely proportional to property valuation per pupil (that is, districts with a lower resource base would receive more than districts with a higher resource base); directly proportional to the percentages of both minority children and low-income children; and inversely proportional to the number of children per square mile. While the particular criteria they selected may not be appropriate for all states, the idea of linking funding to educational finance capacity has certain advantages.

The burden that the different kinds of high-cost children identified in the state formulas impose on local districts depends entirely on the resources the districts have to meet the needs of those children. Educating the children from a small, low income neighborhood will not seriously strain the school budget of a relatively wealthy suburb, while an influx of refugees into a financially strapped middle-sized city may require more than the

district can handle. Although Chapter 2 cannot begin to compensate for differences of any magnitude, it can have a significant effect on a district's ability to be creative in meeting its needs. A property-poor district's budget is much more likely to be locked into providing a minimum level of educational services than that of a property-rich district. Without extra outside support, very little experimentation is possible. It seems appropriate for states to consider sending more funds to districts where they are likely to make a bigger difference in improving schools.

The Problem with Desegregation Aid

If the Emergency School Aid Act had not been consolidated into Chapter 2, the controversy surrounding the education block grant would probably have been much less intense. Of all the antecedent programs, ESAA was the most highly targeted on districts with large minority populations. It also provided a powerful incentive for districts to comply with court-ordered desegregation plans or to submit voluntary plans, an incentive entirely absent in Chapter 2.

States that lost considerable ESAA grants found that under Chapter 2 it was nearly impossible to fund their desegregating districts at the previous level of support. A few states, notably California and New York, tried to design formulas that "held harmless" their ESAA districts, but the Education Department ruled that desegregation could be used only as a high-cost factor, not as a hold-harmless provision. (These were the only state formulas the Education Department refused to approve.) Several states resorted to reserving some of their 20 percent funds to award grants to desegregating districts, or to building a small desegregation factor into their formulas. In very few cases did ESAA districts receive Chapter 2 grants comparable to their previous year's ESAA grants (this funding issue is discussed at some length in Chapter II). Chart V-5 lists the losses suffered by large urban districts as a result of the ESAA consolidation.

In any restructuring of federal aid, there are bound to be dislocations. What makes this one particularly troublesome is that the federal government has been divested of an effective incentive for civil rights compliance. Before ESAA was enacted in 1972, the only tools available to the government were court suits, which are costly and time-consuming, and cutoffs of federal aid, which can have an adverse effect on the very populations the actions are

CHART V-5

PRELIMINARY ESTIMATES OF GAINS AND LOSSES
UNDER BLOCK GRANTS FOR SELECTED STATES AND CITIES

	1981-82 Categorical Aid	1982-83 Block Grant*	Percent Change
Colorado	$ 5,470,881	$ 5,226,034	- 4.4%
Denver	784,158	717,846	- 8.5
Balance of state	4,686,723	4,508,188	- 3.8
District of Columbia	5,081,817	2,187,360	- 56.9
Florida	15,189,568	15,789,102	+ 3.9
Miami	2,624,958	2,160,694	-17.7
Balance of state	12,564,610	13,628,408	+ 8.5
Georgia	12,412,579	10,871,064	-12.4
Atlanta	1,300,000	786,000	-39.5
Balance of state	11,112,579	10,085,064	- 9.3
Illinois	22,001,556	21,174,245	- 3.7
Chicago	6,833,669	4,750,000	-30.5
Balance of state	15,167,887	16,424,245	+ 8.3
Louisiana	11,553,890	8,550,185	-25.9
New Orleans	1,903,758	658,400	-65.4
Balance of state	9,650,132	7,891,785	-18.2
Maryland	7,231,962	7,901,277	+ 9.2
Baltimore	895,598.**	1,350,000	+50.7
Balance of state	6,336,364	6,551,277	+ 3.4
Massachusetts	10,653,970	10,179,203	- 4.4
Boston	1,056,479	800,000	-24.3
Balance of state	9,597,491	9,379,203	- 2.3
Michigan	20,542,592	18,242,264	-11.2
Detroit	4,249,476	3,400,000	-20.0
Balance of state	16,293,116	14,842,264	- 8.9
Minnesota	6,610,381	7,634,133	+15.4
Minneapolis	610,712	272,996	-55.3
Balance of state	5,999,6 9	7,361,137	+ 22.7
Missouri	17,567,404	8,900,251	-49.3
St. Louis	5,131,487	708,000	-86.2
Balance of state	12,435,917	8,192,251	-34.1

New York	48,291,827	31,353,236	-35.0
Buffalo	7,651,652	950,000	-87.6
New York City	14,238,100	8,470,000	-40.5
Balance of state	26,402,075	21,933,236	-16.9
Ohio	25,208,194	20,366,440	-19.2
Cleveland	4,647,259	900,000	-80.6
Toledo	814,496	371,000	-54.5
Balance of state	19,746,439	19,095,440	- 3.3
Oregon	4,296,691	4,634,193	+ 7.8
Portland	645,500	500,000	-22.5
Balance of state	3,651,191	4,134,193	+13.2
Pennsylvania	20,340,163	20,977,320	+ 3.1
Philadelphia	6,573,959	3,427,651	-47.9
Balance of state	13,766,204	17,549,669	+27.5
Tennessee	7,862,551	8,583,914	+ 9.2
Memphis	997,737	948,066	- 5.0
Nashville	795,675	556,823	-30.0
Balance of state	6,069,139	7,688,367	+26.6
Texas	27,272,790	27,688,367	+ 1.5
Dallas	2,663,471	1,001,260	-62.4
Balance of state	24,609,319	26,687,107	+ 8.4
Washington	9,658,260	7,352,566	-23.8
Seattle	4,230,337	731,530	-82.7
Balance of state	5,427,923	6,621,036	+22.0
Wisconsin	13,788,358	8,923,105	-35.2
Milwaukee	7,824,647	2,695,606.***	-65.6
Balance of state	5,963,711	6,227,499	+ 4.4

* Block grants for cities are estimates and include funds for public schools only. The Education Commission of the States provided 1981-82 data.
** Baltimore received no Emergency School Aid Act funds in 1981-82.
*** Includes funds from state portion of Chapter 2.

Source: Council of Great City Schools

intended to help. ESAA provided a positive incentive to reduce minority isolation, by providing funding for magnet schools, community relations, special instructional programs, and other services. To receive the support, districts had to submit acceptable plans and proposals, which were carefully negotiated with the Education Department's Office of Civil Rights (OCR). A former OCR Director, David Tatel, has testified that the ESAA compliance requirements were "the most effective civil rights provisions available to government. Their use brought with them none of the political controversy often associated with fund terminations. The pre-clearance requirements of ESAA were responsible for improving the educational opportunities for hundreds of thousands of minority children" (House Report 98-581, pp. 18-19).

While legislation to reenact ESAA has been introduced, the only measure that has become law is Title VII, Magnet Schools Assistance, of the Education for Economic Security Act, which authorizes $75 million for each of three years. This program will provide funds for districts with large desegregation efforts, but only for a magnet school program. There is no provision for preclearance reviews, and no authority for OCR to approve district plans. At this point it seems doubtful that additional enforcement mechanisms will be enacted.

The Role of the State Education Agency

If Chapter 2 could be compared to a children's game of tag, the State Education Agency is "it." "It" is both pariah and overlord, the center of attention that is to be avoided whenever possible, the one who is blamed if the game goes badly. It has been given heavy responsibility with little authority; its every move has been tracked by a host of voyeurs; and the shortcomings of the entire program have been laid at its door. As one Chief State School officer put it, the SEAs are like a mother-in-law adjusting to her daughter's new husband: "We warned her against Chapter 2, but now we have to brag about him."

Under the antecedent programs, SEAs played a variety of roles, from bystander to grant-giver. Lengthy federal regulations and guidelines delineated the various responsibilities of Federal, state and local officials. To a large extent, Chapter 2 wiped the slate clean. If one word can describe the SEA's position, it is "dubious." As the Louisiana SEA interprets the law, "The SEA approves local plans but cannot require, beyond

the general provisions of the law, that LEAs follow standard processes and procedures. The SEA can provide guidance and technical assistance only when these are requested. For example... the SEA can suggest adequate and appropriate expenditures and record-keeping, but it doesn't have the authority to require LEAs to follow procedures that will ensure (that an) audit finds them in compliance with the law." Louisiana also feels that "the SEA does not have approval authority over LEA grant applications," nor can the SEA "demand complete application data."*

Yet in its monitoring of SEA Chapter 2 administration, as we discussed earlier, the Education Department clearly places the responsibility for supervising local programs with the SEA. SEAs are supposed to ensure that LEAs give private schools a share proportionate to enrollment, that private schools use and account for their purchases properly, that LEAs keep appropriate records for fiscal and compliance audits, that LEAs provide for systematic consultation with parents, teachers, administrators and other groups, and that funds are spent and used in accordance with the law. SEAs are also supposed to conduct an annual evaluation of LEA programs. This is a tall order, considering that the law also says that SEAs are not supposed to have any say in LEA decisions about what programs to mount with Chapter 2 funds, and that SEAs tend to feel they do not have the authority to withhold funds from LEAs.

In the Fall of 1984, the SEAs were also heavily criticized for using their 20 percent funds to support staff salaries and expenses. The National School Boards Association raised serious questions with Representative David Obey (D-Wisconsin), a member of the House Appropriations Committee, about whether the $250 million increase in Chapter 2 requested by the administration should benefit SEAs at the expense of local districts.

Congressman Obey sponsored an amendment, which passed the House of Representatives, requiring that any additional funds be used only for identifiable projects to increase school effectiveness, and that only 50 percent of the SEA set-aside could be used for administration and "strengthening state departments of education." He said: "We know that in some states, the salaries of state employees have been transferred directly from state payrolls to this federal program simply because Congress and the

* From A New Partnership: The Education Block Grant in Louisiana. Louisiana Department of Education, Baton Rouge, March 1985.

Education Department have not demanded that more of the money go directly to the classroom where it is most needed."

As it turned out, only $50 million was added to Chapter 2, and the Obey amendment was dropped in the House-Senate conference. However, the conferees registered their concern about federal funds paying the salaries of state employees rather than improving classroom instruction. Congress also asked the Education Department and the states to report how much federal money the states used for state operations, and to suggest ways to target federal funds better. In March 1984, the Council of Chief State School Officers surveyed its 50 state members, as Congress requested, to ask how SEAs actually spend their 20% share. Their response is interesting:

CHART V-6

HOW SEAS REPORT SPENDING THEIR CHAPTER 2 FUNDS

1.Total 20% Dollars Awarded Directly to Local School Districts	12%
2.Total 20% Dollars Spent by the SEA on Direct Services to LEAs, Teachers, Principals Administrators, and Other SEA Constituents (e.g. Curriculum Consultants, Training Instructional Materials, District Staff Development)	52%
3.Total 20% Dollars Spent for Chapter 2 Administration	13%
4.Other 20% Dollars Spent for Purposes Not Included Above (e.g. Administrative Activities, or Other Activities That Do Not Directly Serve SEA Constituents)	23%
	100%

Source: Council of Chief State School Officers (CCSSO)

When reported in this format, it is clear that many of the "state employees" supported by Chapter 2 have jobs that do provide services of various kinds to local school districts. The dispute over how SEAs use their funds stems, in part, from the simple fact that there is no uniform reporting system for Chapter 2, not even a Federal application form. Each state

submits a letter--and whatever supporting documents it deems appropriate--to the Education Department, describing how the SEA will use its share and what the state formula is. NCCE's 1983 analysis of SEA Chapter 2 programs, which was based on data from state applications, presents a very different picture from that offered by the CCSSO:

SEA CHAPTER 2 PROGRAMS

Programs Supported	Total Used	% Total SEA Program
1.Basic Skills	$ 6,109,691	7.5%
2.Educational Improvement and Support	60,119,111	74.1
• Strengthening SEAs	$42,070,733	
• Improving Local Practices	9,203,498	
• Local Support and Training	4,893,814	
• Desegregation Activities	3,951,066	
3.Special Projects	5,096,391	6.3
4.Chapter 2 Administration	9,781,419	12.1
Total	$81,106,611	100.0%

How SEAs choose to classify their expenditures makes a significant difference in how they are interpreted. "Strengthening SEAs," which is a term borrowed from Title V of the ESEA, can mean anything from research activities, to evaluation, to statewide planning, to computerized record-keeping, to use of curriculum consultants. Many of these activities may involve direct and very helpful services to local districts, but the term implies a benefit only to SEAs.

It appears that the consensus which developed around the original ESEA--that SEAs deserve a substantial share of Federal aid--has broken down. Now, local interests represented by the National School Boards Association are fighting state interests, represented by the Council of Chief State School Officers and the National Association of State Boards of Education, for a greater share of less money. No matter how expenditures are presented, this conflict will probably persist in future debates over structure and funding.

Private School Participation

One of the most controversial issues in Chapter 2 is the extent of aid being used for materials and services to children who attend private schools. While some data are available, they are far from complete. NCCE's state survey asked SEAs to report the amount of aid benefiting private schools from

the antecedent programs, and the amount from Chapter 2. Only seven states were able to provide both amounts (Arkansas, California, Colorado, Idaho, Illinois, Kentucky and South Dakota). They estimated that in the 1981-82 school year, services to private schools amounted to a total of $3.3 million; in 1982-83, the first year of Chapter 2, they amounted to $6.4 million, an increase of 91 percent.

The reason for such a substantial jump is fairly simple. Under many of the antecedent programs, private schoolchildren were eligible to receive some services; but only in Title IV-B, and to a much lesser extent under Title IV-C, did the amount of aid reach a measurable proportion. The ESAA, one of the largest antecedent programs ($149 million), did not provide any support for private schools. In contrast, Chapter 2 guarantees private school children a proportionate share of all funds flowing to local districts.

In urban areas, the increase to private schools was even more substantial, because that is where most parochial schools are located. The Council of Great City Schools, which represents the nation's 32 largest school districts, estimates that about 15 percent of their Chapter 2 funds went to private and parochial schools, compared to about 5 percent the pervious year. (These districts receive a total of $61.3 million, or 17.5% of all local Chapter 2 funds.) Another survey of 34 urban districts by the American Association of School Administrators found that the average district spent about 15.6 percent of its total Chapter 2 grant on services to private schools. According to Education Department data on 49 districts, the proportion in some reached as high as 25 percent in school year 1983-84 (Boston, Cincinnati, Cleveland, New York City, Orleans Parish, San Francisco, and Yonkers).*

The combination of losing ESAA grants and having to share their entire grant proportionately with private schools had a devastating effect on many big cities. Data on the largest desegregating districts are presented in Chart V-7, which shows the amount the districts received from the antecedent program (1981-82), their total Chapter 2 grants in 1982-83, then the amount, and proportion, of the Chapter 2 grant that benefits private schools. While some districts held even, or gained, others lost over half their funding, and

* Carol Chelemer and Judith Anderson-Ng, "Setting the Record Straight: What ED knows about Private School Participation under ECIA Chapter 2," Education Department Planning and Evaluation Service, 1984. There was considerable overlap of districts among the studies.

then had to share a large part of their reduced grant with private schools. Buffalo was the worst case: its 1982 Chapter 2 grant was only 16 percent of what it had been in 1981-82, yet it provided $250,000 in services, 21 percent of its entire grant, to private schools. A few other cities, such as Boston and Baltimore, actually gained funding. In 1981-82 the average percent of a district grant that benefited private schools was about 5 percent.

CHART V-7

EFFECT OF CHAPTER 2 ON DESEGREGATING GREAT CITY SCHOOLS, PUBLIC AND PRIVATE

	Total for Antecedent Programs 1981-82	Total for Chapter 2 1982-83	Amount for Private Schools 1982-83	Percent for Private Schools
Atlanta	$1,300,000	$ 886,000	$ 59,000	6.7
Baltimore	1,176,000	1,427,000	214,000	15.0
Boston	659,000	1,401,000	390,000	27.8
Buffalo	7,657,000	1,200,000	250,000	20.8
Chicago	6,784,000	6,358,000	858,000	13.5
Cleveland	4,969,000	1,234,000	188,000	15.2
Dade Co. (Miami)	2,625,000	3,098,000	157,000	5.1
Dallas	2,654,000	1,511,000	71,000	4.7
Denver	784,000	816,000	98,000	12.0
Detroit	4,531,000	3,800,000	600,000	15.8
Memphis	1,044,000	1,051,000	100,000	9.5
Milwaukee	7,836,000	2,696,000	296,000	11.0
Minneapolis	679,000	604,000	58,000	9.6
New Orleans	1,904,000	843,000	185,000	21.9
New York	14,526,000	11,555,000	2,530,000	21.9
Philadelphia	5,609,000	3,546,000	670,000	18.9
Portland	686,000	645,000	35,000	5.4
Seattle	4,230,000	924,000	192,000	20.8
Toledo	880,000	474,000	103,000	21.7
Washington	5,082,000	2,187,000	328,000	15.0
Total	$76,411,000	$46,857,000	$7,426,000	15.8

These data do not fully reflect a longer-term trend of falling support for ESAA, however: in 1980-81, the second year before Chapter 2, the total amount these cities received was $110,838,000, compared to $76,411,000 in 1981-82, a drop of 32 percent. Under Chapter 2, they lost an additional 39 percent. How much they would have lost had ESAA remained intact cannot be known, but because ESAA funded limited term projects, not continuing entitlements, it is fairly certain that it would have been less.

Once the funds arrive at a local district, there is an interesting series

of questions about how the private school portion is to be calculated. State formulas are based on total public and private school enrollment, regardless of whether the private schools attended are accredited, or whether the schools wish to benefit from Chapter 2 services. To complicate matters, in many states the data on "high-cost" children are drawn only from public schools, such as data on students needing basic skills remediation based on state-wide tests not necessarily administered in private schools.

The NRG leaves the question of which private schools actually are eligible to receive services up to state law. The draft NRG, which was in effect the first year of the program, says that while a state may declare private schools ineligible, "it should be recognized that children enrolled in private, nonprofit schools are eligible for... benefits, not the school" (Draft NRG #4). The final NRG says that an LEA must provide services to all schools that qualify as private, nonprofit elementary and secondary schools under state law and are in compliance with applicable federal statutes (NRG #122). This last phrase is generally interpreted to mean Title VI of the Civil Rights Act prohibiting discrimination by race, color, or national origin.

Local practice appears to vary considerably. The AASA surveyed 34 urban districts, some of the largest in the country, to ask whether they requested participating private schools to sign assurances that they comply with four Federal statutes: Title VI, Title IX (prohibiting discrimination by sex), Section 504 (providing equal access to the handicapped), and Section 501 C-3 (having nonprofit status). Eleven districts required no assurances of compliance; only nine required private schools to comply with all four laws.

The preamble to the Regulations states simply that "recipients of grant funds under Chapter 2 are recipients of Federal financial assistance under the civil rights laws" (p. 52370). The regulations then refer to 34 CFR Parts 100, 104, and 106, which cover nondiscrimination on the basis of race, handicap and sex. Neither the regulations nor the NRG specify clearly whether private schools are considered recipients of federal aid under Chapter 2. There is a cryptic reference in the regulations to a 1976 Office of Civil Rights Report which was published in the Federal Register (41 Fed. Reg. 35553), and which is determined to be "in effect" (p. 52385, Appendix to the regulations). The OCR report,* which deals only with Title VI of the

* The text of this report is included in Appendix I.

Civil Rights Act, does rule that private schools whose students participate in federal programs must obey the law. Which laws apply, to what extent, and who is responsible to enforce them? The situation is murky and the Education Department has provided very inadequate guidance. This issue was not addressed in the Education Department monitoring process.

To some extent this problem has been resolved by the private schools themselves. Education "academies," founded to avoid racial integration, and small fundamentalist schools have generally refused to participate in the program. The funds thereby released are to be divided proportionately among the remaining public and private schools. It is interesting to note that although in theory the funds benefit children, not schools, the schools may refuse the funds on behalf of the children (NRG #123).

Once the eligible private schools are identified, the LEA is required to notify their officials of the benefits and services they may receive. The law says that "expenditures for (private school benefits) shall be equal (consistent with the number of children to be served) to expenditures for programs under this chapter for children enrolled in public schools... taking into account the needs of the individual children and other factors..." If the LEA decides to concentrate its Chapter 2 programs on a particular group, attendance area, grade, or age level, the children enrolled in private schools who are included in the area selected, "shall, after consultation with the appropriate private school officials, be assured equitable participation in the purposes and benefits of such programs..." (Sec. 586(3)(b)).

What does this mean? To what extent can an LEA "take into account the needs of the individual children" and, for example, restrict Chapter 2 aid to programs that meet only certain kinds of need, such as basic skills deficiencies, or racial isolation, whether the children with such needs attend public or private schools? May a district target its "high-cost" aid to programs serving "high-cost" children, and divide only its enrollment-based aid proportionately with private schools? Or may an LEA restrict its aid to certain grade levels, or programs for certain ages, such as developmental kindergarten or remedial reading and math for 9th graders, and hold private school participation to the same purpose?

According to the regulations and the NRG, the answer to all these question is no. An LEA "may not take into account the extent to which

children in private schools generated a portion of the LEA's allocation (for) 'high-cost' children," (Sec. 298.24(a)(2)(i)). This means that an LEA may not require private schools to submit evidence that they have high-cost children before providing services from funds generated for those children.

The regulations do say that LEAs may concentrate Chapter 2 funds on programs for particular groups or age levels of children provided that they "ensure equitable opportunities for participation by children enrolled in private schools," who have the same needs or are in the same age levels. The regulations also say, however, that before the LEA makes any decision affecting the opportunities of private school children to participate, private school officials must be consulted (Sec. 298.22). If they do not agree to the LEA's program design, of course, then they may appeal to the SEA for a hearing, and a bypass procedure.

Finally, the regulations say that if the needs of private school children are different from the needs of public school children, "an LEA shall provide Chapter 2 services for the private school children that address their needs on an equitable basis" (Sec. 298.24(b)(iii)). According to the Education Department, which wrote the regulations, there is no legally recognizable difference between the needs of public and private school children:

> "An LEA must provide Chapter 2 services for the private school children that address their needs, even if their needs are different from the needs of the children enrolled in the public schools." (NRG #131)

While the provision in the law that funding for services to private school children must be proportionately equal--taking into account the needs of the individual children--might be read to mean that certain needs may have priority over others, the Education Department has not interpreted the law that way. Instead, it has said that private school needs, whatever they are, are equal to those of public schools.

CHAPTER VI. SIZING UP CHAPTER 2: CONCLUSIONS AND RECOMMENDATIONS

Most recent research on federal education programs suggests that they do have a measurable, positive effect when funds are targeted for a specific purpose on certain populations and carefully regulated in their fiscal management.* The research on block grants is more equivocal. In its 1982 Lessons Learned from Past Block Grants, the GAO found that while the programs were often directed toward needy groups, they are highly unstable in their political and financial base of support. The five block grants GAO studied have been either abolished, merged, or drastically cut. Consolidating a number of smaller, special purpose programs into a larger, more general purpose grant is risky business.

Chapter 2 appears to be vulnerable. Its legislative goals are neither many nor lofty: "to consolidate... program authorizations," "to improve elementary and second education... for children attending both public and private schools," "to greatly reduce the enormous administrative and paperwork burden imposed on schools at the expense of their ability to educate children" (Sec. 561(a)). If we examine these intentions carefully, we might wonder why Congress did not repeal the old programs altogether, and simply allow the absence of paperwork to produce the improvement desired. Yet Congress did not do that of course. Some improvement beyond that of lifting administrative burden must have been intended. For the program to continue to have support, from Congress and the public, it will have to demonstrate that improvement has been made.

But what sort of improvement? If we look to the programs consolidated, to examine whether their goals and purposes indicate a direction for the program to take, the law seems murky. The antecedent programs were a mish-mash of things, running often at cross-purposes--desegregation vs. ethnic heritage, gifted and talented vs. basic skills, improving local practice vs. purchasing library books. Because of this, Chapter 2 appears to lack identity and coherence. Perhaps we need to adjust our perspective, to consider whether the program may have an implicit purpose that helps to tie its parts together.

---

* The Sustaining Effects Study, Systems Development Corporation, 1982. Cumulative Effects of Federal Education Policies on Schools and Districts, SRI International, 1983.

In every mix of federal programs, political necessity dictates that there be something for everybody. This allows for the development of several key constituencies that will both benefit from and support the programs. In 1965, when the Elementary and Secondary Education Act was passed, there were programs for large, needy groups and there were programs that served some portion of the general population. In fact, the total appropriations for these two types of program was about the same, around $700-750 million each (See Chart VI-1). Over the next two decades, the proportions shift sharply as total funding increases. By Fiscal Year 1981, the last of the Carter Administration, funding for special aid programs is $4.8 billion, six and a half times what it was in Fiscal Year 1966, while funding for more general aid programs is only $1.6 billion, or just two and a quarter times that in Fiscal Year 1966.

CHART VI-1

FEDERAL SPENDING BY TYPE OF ELEMENTARY AND SECONDARY PROGRAM
1966-1985 (IN THOUSANDS)

	FISCAL YEAR				
	1966	1972	1977	1981	1984**
Programs for Special Populations					
Title I/Ch.1	746,904	1,570,388	1,929,775	3,235,977	3,487,500
Bilingual Ed.	---	26,010	96,549	168,000	169,183
Handicapped	4,918	67,933	210,595	914,718	1,239,415
ESAA	5,291	92,214	229,300	385,509	---
Follow Through	---	2,024	57,600	59,800	14,767
Indian Education	---	---	48,090	83,038	68,780
TOTAL	757,113	1,758,569	2,571,909	4,847,042	4,979,645
Programs for General Populations					
Titles II, III, IV, V ESEA/Ch. 2	168,270	272,683	372,937	382,565	450,655
Impact Aid	409,593	648,608	764,628	553,942	565,000
Vocational Aid	128,468	416,945	534,305	682,213	738,475
TOTAL	706,331	1,338,236	1,671,870	1,618,720	1,754,130

* From Digest of Education Statistics 1981, NCES, Table
** From August 15, 1984 Education Daily

At the midpoint of the Reagan Administration the pattern has shifted again. The relative proportion of the two types of program is about the same

as under Carter, rather than more divergent; the trend toward ever growing special aid has been arrested. And for the first time in twenty years, there is a greater increase in funding for more general aid programs, about 8 percent. The passage of Chapter 2 is an integral part of this change.

During the fifteen years of rapid growth (1965-1980), Congress authorized several new programs that addressed the needs of large minority populations: P.L. 94-142 for handicapped children, the Bilingual Education Act, the Indian Education Act, and the Emergency School Aid Act. At the same time, it also created a host of "special projects," such as arts in education, metric education, gifted and talented, etc., that together served every conceivable purpose and constituency (some estimates of their number go as high as 28). This may have amounted to "something for everyone," but it also produced an unmanageable tangle of guidelines, applications, timetables, and funding requirements. Although it did not state such a purpose explicitly, Congress must have felt it was time to adjust the balance: Why not consolidate some of the larger, general purpose programs with the smaller special projects, cut the funding but reduce the overhead, and allow the funds to be used smorgasbord-style, for each or all, however districts would like? It is much less complicated to divide one relatively large pot among 16,000 school districts than it is to parcel out 42 separate pots. And that way, it is much clearer that there really is something for everyone.

The question remains, of course, whether making life easier for education administrators, and distributing federal funds more smoothly and evenly, are all the improvements we should expect. Does Chapter 2 actually stimulate further improvement? The answer seems to be yes. In districts where the grant is large enough to mount a program, or to provide money "at the margin" to give leverage to a new initiative, Chapter 2 seems to be making a difference. Whether its structural design will allow this to continue is more problematical.

Under contract to the National Institute of Education, E.H. White & Company commissioned nine two-year case studies of Chapter 2. According to the study director, Chapter 2 has provided districts an opportunity to look at their broader needs and address them, at least in a limited way. Many districts seem to feel that so much attention has been paid to "higher needs" students over the years that other students have been neglected, and that it is time to move toward a more distributive definition of equity. Chapter 2

gives them the flexibility to do that.

In the first year, several national reports found that local districts were using their funds to purchase books and computers without thoughtful plans for how to use them. Since then, according to the NIE case study authors, many districts have integrated Chapter 2 into their planning and needs assessment process and are using the funds as "risk capital" for improvement projects. In several districts, for example, Chapter 2 has provided the computer hardware for a district-wide computer literacy program. In districts with more acute needs, such as an influx of refugees, Chapter 2 has provided support for special efforts such as an English as Second Language program. The only types of district that have not been able to benefit are those that lost substantial desegregation grants, and those that are so small that the $5-10 per student is enough only to purchase a few books. These findings are certainly a tribute to the resourcefulness and sophistication of local education agencies.

Ironically, the ability of local districts to use Chapter 2 creatively may be a legacy from the categorical program era. The Cumulative Effects Study makes the interesting point that having to implement complex highly targeted aid programs strengthened local administrative capacity. Title I (now Chapter 1), for example, specifies planning, needs assessment, and evaluation, procedures foreign to many districts before 1965. Although these requirements were widely viewed as burdensome and time-consuming when they were first imposed, SRI found that "most of the burden associated with any particular law seems to diminish drastically after the first year or two of the law's implementation" (p. 158). None of these procedures is required of local districts under Chapter 2, yet all seem now to be in general practice.

The NIE case study researchers did raise two important concerns about Chapter 2 structure, and whether it is designed to allow continuing change. If Chapter 2 becomes well enough established that districts can start counting on it, the funding may become so integrated into the core program that it will lose its seed money function. Also, there is the problem of scale. For many districts, Chapter 2 provides a little extra money for small pet projects. Once these have been funded, there may be a tendency to use Chapter 2 for petty cash. While we do not want to begrudge our school districts computer software, copying machines, bulletin boards, or testing programs, do these purchases warrant federal support?

Few disagree that local districts should have ample flexibility to design, manage, and deliver services; without it, quality and responsiveness would be impossible. The need is to strike a balance. If grants are too small, they cannot provide leverage. If funds flow automatically, they tend to be used for general support. If the community is not consulted, programs may not be responsive to need. If programs are not evaluated, funds may be wasted on ineffective applications. If areas of flexibility are made clear, then areas of accountability should be clarified as well.

A cautionary note sounded recently by Denis Doyle, of the American Enterprise Institute, is helpful:

> "...the Congress may be seized with a reformist passion and decide to invest a few billion dollars in education. If it does so, it must restrain its impulse to give dribs and drabs of money to the nation's 16,000 school districts. Limited resources should be targeted, and they should be used not for day-to-day operating expenses, but as seed money to underwrite the costs of orderly, structural change. (Washington Post, July 19, 1983)

Recommendations

If the real purpose of Chapter 2 is to provide something for everyone, then that something should be of value. This should be a program that sustains constant improvement, reform and experimentation in the least restrictive way. Yet it should also encourage systematic, responsible and adaptive behavior in education agencies and those who staff them. We would like to offer a few recommendations for change in program structure and requirements that may help to achieve such a balance.

1. In our federal system, State Education Agencies (SEAs) play a critical role in improvement and reform. Yet Chapter 2, in many ways, undercuts this role and allows SEAs little leverage with local districts.

- The law and regulations should clarify SEA oversight responsibilities and recognize the importance of the SEA role. SEAs should be permitted, even encouraged, to see that Local Education Agencies (LEAs) conduct needs assessments, consult parents and the public, design programs to meet needs, conduct evaluations, and monitor private school participation. SEAs should be authorized to withhold funds, if necessary, from districts that do not administer the program properly. It should also be clear

that SEAs may offer technical assistance and other support services without having to wait for a request from LEAs.

- The law should allow SEAs the option to retain an additional amount, up to 10 percent, for a competitive grant program to encourage local improvement projects. Under Title IV-C, many states mounted highly effective, well designed programs that provided incentives to local districts to develop quality proposals. The current 20 percent maximum set aside is not adequate for a program of any reasonable scale after other important SEA services are funded.

2. The guidelines for state Chapter 2 formulas should be clarified and criteria defined for determining whether they are "reasonably calculated to produce an equitable distribution of funds."

- The final regulations should fully reflect congressional intent and specify that high-cost allocations in state formulas be distributed only to districts with the greatest numbers or percentages of high cost children, rather than to districts with any numbers or percentages of such children. If the final regulations do not include such a provision, Congress should vote to disapprove them.

- While states should have as much flexibility as possible to design formulas that are appropriate for their needs and circumstances, they should nevertheless be required to justify the formulas they design. How else can the Secretary, or anyone else, determine if they are "reasonably calculated," or whether they will result in an "equitable distribution?"

- The criteria the Department uses to approve state formulas need not be excessively detailed, but instead should suggest the type of documentation that would be helpful in the process of creating a formula. If a state selects handicapped and gifted children for high-cost allocations, for example, the SEA should have data showing that current programs are not meeting their needs, or that concentrations of these children in certain areas are straining local capacity to serve other children, or that meeting these needs has been identified as an initiative for state reform.

- SEAs and State Advisory Committees should, in designing formulas, consider providing grants on a scale that can make a difference and in a way that is sensitive to varying LEA capacities to serve children. States with many tiny districts should encourage joint applications, perhaps through an intermediate unit. States with large, inner city systems should consider basing aid on property resources.

3. Many excellent programs are being funded by Chapter 2, in state agencies and in local school districts. SEAs should be encouraged to identify, validate, and disseminate these programs to other districts. Also, there is not enough systematic data collection so that Congress and the public can easily obtain basic information about the program.

- The Education Department should request a set body of information from states beyond the few items noted in the law when they apply for Chapter 2. At a minimum this should include: a description and justification of both the formula and the SEA program, the State Advisory Committee minutes, a list of SAC members with their names and addresses, the LEA application form and state guidelines, and a description of how the SEA will determine which private schools are eligible.

- The SEAs and the Education Department should continue their excellent collaboration on state Chapter 2 evaluations, to set standards of quality, to develop a common body of areas for investigation, and to synthesize and report their findings. Within states, SEAs should begin a similar effort with their LEAs.

- The NRG and SEA guidelines should both contain unequivocal language stipulating that parents and citizens must be allowed to inspect, review and copy (at a reasonable charge) all official Chapter 2 documents, such as the LEA application, evaluation and audit reports, needs assessments, budget information, Federal, state and local laws, regulations and guidelines, and any other information needed for full, effective participation.

4. The only program consolidated into Chapter 2 whose purpose was completely incompatible with a block grant was the Emergency School Aid Act (ESAA). It

provided large grants to multi-ethnic districts that submitted acceptable plans, whether voluntary or court-ordered, to reduce minority group isolation. Chapter 2 provides small grants to all districts, no matter how they plan to use the funds. Although Congress has recognized the need to re-establish a program to encourage and support desegregation, it has taken only a partial step by passing the Magnet Schools Assistance Act. Magnet schools are but one technique for creating educational settings that serve all races and classes, and they are not effective in all districts.

- Congress should provide additional, categorical support for desegregation assistance, independent of Chapter 2. Like ESAA, the program should encourage a wide variety of approaches, and aproval should be contingent on an acceptable plan.

5. The participation of children attending private schools should be carefully reviewed. Many seasoned observers point out that although Chapter 2 provides an unprecedented amount of aid for private education, it is preferable to, and may even have headed off, more radical proposals such as tuition tax credits and vouchers. Also, the gesture of goodwill it makes increases the likelihood that private school families will support local bond issues, an important consideration in heavily Catholic urban areas. Certainly, the private school constituency will be a major base of support for Chapter 2. Yet any design for aid to private education should be carefully planned and regulated so that funds are used for appropriate purposes, so that schools with discriminatory practices do not benefit, and so that children with acute educational needs are not shortchanged.

- The regulations and the Non-Regulatory Guidance (NRG) should be amended to make it absolutely clear that federal civil rights laws do apply to private schools that receive Chapter 2 materials and services, and that SEAs and LEAs should develop procedures to ensure that private schools comply. No benefits should flow to schools that practice discrimination.

- The current interpretation of the law regarding "equal expenditures" for private school children, "taking into account the needs of the individual children," should be changed. The Education Department says this

provision means that expenditures for private school children should be exactly proportional to enrollment, regardless of need. The law could, and should, be interpreted to mean that local districts may restrict the application of "high-cost" funds to programs for "high-cost" children, and that private schools would benefit from those funds only to the extent that they actually serve those children.

6. And last, the program would be much stronger and more attractive to support if there were more public involvement in decisions, especially in local districts. This is an area to be improved through leadership rather than regulation. The Cumulative Effects Study found that "federal statements of purpose have a profound effect on schools and districts" (p. 160). Both the Education Department and the SEAs should emphasize the importance and the positive effects of public participation in all aspects of the program. To its credit, the Education Department paid close attention to State Advisory Committee (SAC) proceedings and to state guidelines on parent consultation in local programs, when it recently monitored SEA administration.

- SACs should take the lead in building public involvement, by advising the SEA to provide technical assistance on how to involve parents, or by holding workshops on Chapter 2 for parents, or by persuading the State Board to adopt parent participation as one of its top priorities.

- SACs should form a national organization to exchange ideas and best practices, to share information, and to strengthen their independent identity. SAC Chairs (and other key members) should also consider convening a national meeting once a year to highlight major issues, to share experiences, and to make contacts.

- Similarly, LEA advisory groups should form a state networking system and request that the SEA hold regional workshops that include parents and citizens active in Chapter 2.

Afterword
A Guide to Chapter 2 for Parents and Citizens

The purpose of this brief guide is to encourage broader, more informed participation by parents, citizens, and members of the education community in Chapter 2 decisions. If Chapter 2 programs are to address state and local needs in a responsive, creative way, the communities they are intended to serve should be intimately involved in their design and implementation. Anything Goes describes the structure of the program and explores the issues that have arisen within and around it; this guide presents a program design process that sets out the steps of how to identify and respond to state and local needs. It can be used in devising a state formula as well as in deciding which programs to support.

There is a school of thought that says Chapter 2 was not intended to respond to specific needs, it was intended to improve education for all children. We would respond that these goals are not mutually exclusive. No school system that allows some children to fall hopelessly behind can be called excellent; and no system that does not allow its most able students to achieve their full potential can be called equitable. Chapter 2 should address both excellence and equity. One way to start is by looking at need.

First, any advisory committee or group that wishes to influence Chapter 2 will need a set of basic materials, which can be obtained from the state Chapter 2 coordinator, or the U.S. Department of Education. They are:

- The law, which is reprinted as Appendix II of this report.
- The federal regulations.
- The federal Non-Regulatory Guidance (NRG).
- The state application form and state guidelines.

The federal materials may be requested by contacting Mr. Allen King, Deputy Director, Division of Educational Support Services, Office of Elementary and Secondary Education, 400 Maryland Ave., SW, Washington, D.C. 20202; telephone (202)245-7965. The state materials are available from your State Department of Education.

At the end of this Guide, we recommend additional resources for all who are interested in becoming involved in education issues.

Pressure Points

The law requires parent and public involvement in both state and local Chapter 2 programs (see Chapters I and IV of this report), although the provisions are more extensive at the state level. State Advisory Committees (SACs) are the major vehicle, and their responsibilities are to advise on the formula that distributes Chapter 2 funds to local districts, on the extent and use of the SEA 20 percent set aside, and on the planning, development, support, implementation, and evaluation of state Chapter 2 programs (Sec. 564(a)2)). At the local level, no mechanism for parent and community involvement is specified; instead the LEA must assure that it has provided for "systematic consultation" with parents, teachers, administrators, and other groups "deemed appropriate," in the allocation of funds and in the "design, planning, and implementation" of Chapter 2 programs (Sec. 566(a)(4)).

Despite the differences in language, the public role in state and local programs is very similar: representatives of parents and the public should be consulted about how funds are allocated (divided up among various groups or organizational units) and how they are to be used (design, planning and implementation of programs). The program design process we present accommodates both functions, and it can be used either by an officially designated advisory body, such as a state or local advisory committee, or by an informal study group that is self-appointed. Although it will be easier for an official committee to obtain data on existing programs and different educational needs, any parent/citizen group is entitled to participate and to be given basic information on the school district program, provided that the privacy of individual students is not violated.

We also recommend that a local group consider using public opinion polls to determine how the community feels about what is needed. The resource section carries a publication that describes how to do this accurately and with ease.

The Program Design Process

The functions of determining who receives funding and what it should be used for are closely interrelated; both are essential to the effectiveness of the program. Everyone involved in these decisions should recognize that some administrative funds will be required to support this activity and perhaps to

gather and analyze data not readily available. While we assume that most states and local districts will have an adequate base of information to indicate what needs there are, and the extent to which they are being met, it is important to consider separately the question whether there may be problem areas not identified because the information is incomplete. It is all too easy to design programs around existing data bases, and to ignore unmet needs because their dimensions are unknown or unmeasured.

A Needs Assessment/Program Design Process

1. DETERMINE NEEDS
   - Examine demographic and other data
   - Review identified needs (from State Board, needs assessments, public reports, Legislature)
   - Review identified goals (from State Board, Governor, School Board, commissions or study groups)

1.a DETERMINE CONCENTRATION OF NEEDS
   - Identify concentrations of needy students in districts
   - Hold hearings or public meetings
   - Define concentration

2. EVALUATE EXISTING PROGRAMS
   - Identify existing programs that meet needs
   - Determine $/pupil they provide
   - Calculate the percentage of need filled

3. DETERMINE UNMET NEED
   - Calculate the percentage of need not met, or number of students not served
   - Identify concentrations of unmet need

4. TEST FEASIBILITY AND APPLICABILITY OF CHAPTER 2
   - Scale - Can anything reasonable be done with available funds?
   - Concentration - Can funds, or a program, be aimed at the problem?
   - Supplement, not Supplant - Would Chapter 2 replace other resources that could meet the need?
   - Capacity - Can the Chapter 2 formula be directed at this need? Could a state program help?
   - Applicability - Can the need be addressed by one of the three Chapter 2 subchapters?

5. DECIDE HOW FUNDS SHOULD BE ALLOCATED
   - Decide on a state formula
   - Design a state program
   - Design a local program
   - Allocate local funds

Step 1: Determine Needs

Most education agencies have performed needs assessments in some form, the SEA perhaps at the request of the Legislature or the state Board, the LEA as part of a program requirement or at the direction of the local school board. These documents should contain a list of state or local needs and describe the priorities that apply. It may be necessary to obtain additional demographic data from other sources such as SEA program offices. For example, the Chapter 1 office will have data by district or families participating in the AFDC (Aid to Families with Dependent Children) program; the special education office will have the numbers and types of handicapped children; the office that administers the state aid program will have data on property valuations; and so on. It is important to do a complete inventory if the most recent needs assessment is out of date or incomplete. (To see what types of need other states have considered in designing their programs, see Chapter V.) As we take you through the process step by step, we will present forms to use in analyzing the data.

Step 1a: Determine Concentrations of Need

Program data will provide the most comprehensive and accurate information about when children with identified educational needs attend school. Test scores, if your state or district uses a system-wide testing program, will help to locate areas of emerging or potential need. And tax data can furnish ample information about districts' relative financial capacity to meet the needs they have. The question to be raised, of course, is whether there are needs that programs or tests have not yet been created to address. One way to answer this is to hold a series of public meeting or hearings, so that those aware of them can present their case.

Next, you will need to decide how to define "concentration." In the state formula section of Chapter V, we discuss how SEAs determined their "high-cost" factors, and what criteria they used to identify "greatest numbers or percentages" of children with educational needs. Most used some variation of "above/below average." From the state perspective, this means that districts with more than the statewide average of children who, for example, are handicapped, who scored in the top tenth or bottom quartile of the state basic skills test, who do not speak English, or who live more than three miles from the nearest school, have "concentrations" of such children.

Or it may mean that districts with property valuation per child below the state average and above the state average tax rate, have a "concentration" of need, in that their capacity to serve all their children is impaired.

From a local perspective, "above/below average" can be looked at a number of ways, using different reference points. Here are some examples. Compared to all the schools in the district, are there certain schools that serve needier populations (such as non-English speaking children) or that have higher educational needs (such as in science laboratories)? Compared to other districts in the state, does your district have a higher percentage of students scoring below the 25th percentile (or above the 85th) on the statewide test? Does your district have a computer literacy program that is comparable to that of other districts with similar job markets or proportions of students who are college-bound? Does your district have a proportion of library books per student that is below the state average? Or how many times a year are staff development and in-service training opportunities offered to teachers and in what areas, compared to the average district?

Step 2: Evaluate Existing Programs

Are there programs already in operation to meet the needs identified? Are they adequate? To what extent is there "unmet need?" These are the next questions to be considered. First, prepare a table of needs vs. existing programs, listing identified needs down the side and existing Federal, state, or local programs across the top.

Existing Programs/Needs

Programs / Needs	P.L. 94-142	State Special Ed Prog.	Chapter 1	State Comp. Ed.	State Aid
Basic Skills Remediation	x	x	x	x	
Limited English				x	
Low tax base			x		x
Handicapped	x	x		x	
Computer literacy			x	x	x

Place a mark in each area where a program is addressing a particular need.

Next, you will need to determine how much aid each program provides toward meeting a need. To do this, find out what the estimated excess cost of meeting each need is; that means, on the average, how much more must be spent on a handicapped/low achieving/limited English child, than on the average child, to help that child achieve at grade level? Or how much aid will a district need so that its expenditures per child reach the state average? Then find out how much aid per pupil existing programs actually provide.

Dollars Per Pupil Provided in Existing Programs

Needs	Programs: Est. Excess Cost*	P.L. 94-142	Chapter 1*	State Comp. Ed.*	State Aid*	Total
Basic Skills			$110			$40 $20
$10			$70			
Handicapped			$150		$40	---
--- ---			$40			
Low Tax Base			$75	---	$10 $5	$15
$20						
Gifted			$25	--	--- $10	
---			$10			

* These numbers are examples only; they do not reflect actual estimates.

Once you have this information, you have basically all you need to make your calculations. What percent of the excess cost does each program provide?

Step 3: Determine Unmet Need

Percentage of Need Filled by Existing Programs

Needs \ Programs	P.L. 94-142	Chapter 1	State Comp. Ed.	State Aid	Total
Basic Skills	---	36%	18%	9%	63%
Handicapped	36%				36%
Low Tax Base		13%	6%	20%	39%
Gifted			10%		10%

The total column tells you the extent to which a need is being addressed; it also tells you how much unmet need there is. If the total aid provided for children behind in basic skills is 63 percent of the excess cost, then there is an unmet need of 37 percent. These numbers, of course, just suggest the dimension of need; they do not mean that coming up with the 37 percent will solve the problem. The problem may be that basic skills programs need to be improved, not spread further; or that staff development is needed so that all teachers' ability to impart basic skills is improved, not that more specialized teachers are necessary.

Another way to look at unmet need is to fill in the chart with the numbers of children served as a percentage of children needing services. Remember, again, that this would indicate problems of dimension rather than of quality.

Step 4: Test the Applicability of Chapter 2 to Needs

Once you have an idea of the state or district's needs, the next step is to assess whether Chapter 2 is an appropriate resource. Some questions to ask:

- What is the extent or scale of the need identified? Can anything reasonable be done within available Chapter 2 funding to meet the need? For example, creating a basic skills program to bring the math scores of all students up to, or above, the national average may be a desirable goal. But the cost of such a program may exceed the Chapter 2 grant. It may be more feasible to target a program only to students scoring below a certain point.

- Is there a concentration of need? Is there a particular aspect of the educational program that is especially inadequate? Are there some districts, or schools, or groups of students, with a significantly greater need than others? Could Chapter 2 funds support a program to reach them? Is this the most feasible approach?
- Would using Chapter 2 funds to address a particular need supplement, not supplant, existing effort? Chapter 2 cannot be used to replace state or local funding and thereby free those funds for other uses. For example, a district may wish to upgrade or replace its elementary math textbooks. If there is already a state program that provides textbooks, using Chapter 2 may not be appropriate.
- Are there other sources of funds better suited to meet a need than Chapter 2? If the Legislature and State Board have set a clear educational priority, elementary school science for example, perhaps state funds might be made available.
- Could any of the needs identified be defined as a high-cost factor in the state distribution formula? Would including them bear any direct relationship to the ability or willingness of local districts to address those needs?
- Does the need as defined fall into one of the three Chapter 2 sub-chapters: Basic Skills Development, Educational Improvement and Support, and Special Projects? A tennis court for every high school may be a desirable goal, but not an appropriate use for Chapter 2.

Step 5: Decide How Funds Should be Allocated

At the state level, allocating funds to local districts is accomplished through a state formula, which the State Advisory Committee is expected to help design. While this process is a large step removed from addressing need, for local districts do not have to use the funds they receive to serve the children who attracted them there, a well thought-out formula can enhance the capacity of districts generally to address community needs and priorities. The major steps in developing a formula include:

- Selecting the percentage of funds (up to 20 percent) to be set aside for the State Education Agency (SEA) to use for administration, development, and services to Local Education Agencies (LEAs).

- Deciding what proportion of funds should be distributed to LEAs on the basis of student enrollment alone. Even in states where a complex weighted factor formula is used, it should be clear exactly how much is based on enrollment, versus "high-cost" children.
- Determining which needs identified through the needs assessment process already described are appropriate for "high-cost" factors. A state may choose, for example, to weight its formula according to certain student groups, such as handicapped, gifted, and educationally disadvantaged. Or a state may choose to weight its formula according to district wealth or tax effort.
- Defining the high-cost criteria so that aid is targeted to districts with the greatest numbers or percentages of high-cost children,. (See Chapter V for descriptions of current state formulas.)
- Deciding what proportion of the high-cost funds should be allocated to each high-cost factor. If a state sets aside 30 percent for high-cost children, for example, how should that be divided among low-achieving, handicapped, and low-income children: 5, 10 and 15 percent, or 10, 10, and 10, or something else?
- Reviewing the actual effect of the formula on local districts to see if it is equitable and "reasonably calculated," and revising the numbers accordingly.

Also at the state level, the SAC helps to decide how the funds reserved for the SEA will be used. These funds can be used much more directly to address need, especially in areas not covered by the formula; many SEAs have created special grant programs for desegregation, innovative projects, computer technology, and basic skills (to list only a few). A certain portion, probably at least 50 percent, of the SEA funds will have to support important but more routine activities such as administration planning, research, and evaluation. The remainder can be used for a variety of activities, perhaps direct technical assistance to local districts in curriculum development, or regional training sessions in computer skills for teachers and administrative staff, competitive mini-grants for innovative projects, or model programs in basic skills instruction.

The process at the local level for allocating funds to purposes and programs is similar: assess needs and identify those that are appropriate to

Chapter 2. We recommend for all but the smallest districts a series of open meetings to discuss the district's needs and to set priorities. This will be helpful to the district's entire program, not just Chapter 2. Some important steps are:

- Defining LEA needs and collecting data, by need, on:
  - Number of students receiving services
  - Number of students not being served
  - Percentage of students in both categories
  - Comparison to other districts in the state
- Deciding on strategies to meet the needs (e.g. staff development vs. special instructors, written vs. audio-visual materials, remedial instruction vs. special kindergarten, etc.)
- Designing programs to implement the strategies
- Evaluating programs for effectiveness and potential for replication (i.e. will they work somewhere else?).

Additional Resources

For lay people, whether parents or citizens, who want to be involved in education, and for educators who want to work with the community, NCCE offers a variety of services and publications. The foremost is our computerized information clearinghouse on education, accessible through the toll-free number, 800-NETWORK, or by mail. Free of charge, we can answer your questions about education issues--Does my state have an open meeting law? What are the advantages/drawbacks of competency testing? Does P.L. 94-142 apply to children with learning disabilities? Which states have statewide testing programs? We can also put you in touch with other organizations for more help, and provide more detailed information for a reasonable fee. Please call or write. The publications we carry can also be very helpful. For people getting involved in Chapter 2, we recommend:

Beyond the Bake Sale: An Educator's Guide to Working with Parents, NCCE, 1985, $8.95 (soft cover) or $14.95 (hard cover) plus $1 handling charge.

Developing Leadership for Parent/Citizen Groups, NCCE, 1976, $3.50 plus $1 handling charge.

Effective Schools: How to Evaluate Them, How to Get Them, NCCE, 1980, $4.25 plus $1 handling.

The Evidence Grows: Parent Participation and Student Achievement, NCCE, 1981, $4.25 plus $1 handling.

Finding Out How People Feel About Local Schools, NCCE, 1984, $3.50 plus $1 handling. This handbook explains, in easy-to-understand language, how to take a statistically valid public opinion poll.

Fund-Raising by Parent/Citizen Groups, NCCE, 1977, $3.50 plus $1 handling.

How to Fix What's Wrong with Our Schools: A Toolkit for Concerned Parents, Bertha Davis and others, Houghton Mifflin, 1983, $6.95 plus $1 handling.

How to Run a School Board Campaign--and Win, NCCE, 1982, $5.95 plus $1 handling.

One School at a Time: School Based Management, A Process for Change, NCCE, 1985, $6.95 (soft cover) or $12.95 (hard cover) plus $1 handling.

Parents Organizing to Improve Schools, NCCE, revised 1985, $3.50 plus $1 handling.

The School Budget: It's Your Money; It's Your Business, NCCE, 1979, $4.95 plus $1 handling.

Your School: How Well Is It Working? A Citizen's Guide to School Evaluation, NCCE, 1982, $3.50 plus $1 handling.

NCCE also carries all the major national reports and books on education reform, including A Nation at Risk. For more information on publications and audio-visual materials available from NCCE, write us for a free copy of our catalogue: NCCE, 410 Wilde Lake Village Green, Columbia, MD 21044.

Appendix I

1. FY 82 Funding Levels of the Chapter 2 Antecedent Programs

2. June 12, 1984 letter from Assistant Secretary Davenport on SEA monitoring of LEA Programs

3. State Chapter 2 Formulas: Amount Per High-Cost Child

4. Types of High-Cost Weightings Used in State Chapter 2 Formulas

5. OCR Report on Nonpublic Schools Participating in Federal Programs

Appendix I-1

FY 81 Funding Levels of the Chapter 2 Antecedent Programs

Major Programs	Amount Available	Percentage of Total
ESAA	$148,684,000	27.7%
Title IV-C ESEA	66,130,000	12.3
Title V, ESEA	42,075,000	7.8
Title IV-B, ESEA	161,000,000	30.0
Basic Skills	25,474,000	4.7
Teacher Centers	10,000,000	1.9
Teacher Corps	21,811,000	4.1
Special Projects:		
Consumer Education	1,326,000	
Metric Education	1,380,000	
Ethnic Heritage	2,250,000	
Cities in Schools	2,645,000	
Push for Excellence	825,000	
Career Education	10,000,000	
Law-Related Education	1,000,000	
Gifted and Talented	5,651,000	
Community Schools	3,107,000	
Pre-College Science	1,875,000	
Biomedical Sciences	3,000,000	
Arts in Education	1,120,000	
Intercultural Understanding	1,982,000	6.8%
Secretary's Discretionary Fund	25,446,000	4.7%
Grand Total	$536,781,000	100.0%

Source: U.S. Department of Education

UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF THE ASSISTANT SECRETARY
FOR ELEMENTARY AND SECONDARY EDUCATION

12 JUN 1984

Mr. Marvin Habas
Chapter 2 Coordinator
State Department of Education
225 West State Street
CN 500
Trenton, New Jersey 08625-0500

Dear Mr. Habas:

This letter is in response to your letter of February 27 to Allen J. King concerning the phrase "monitoring compliance" that now appears in Section 564(a)(7) of Chapter 2 of the Education Consolidation and Improvement Act of 1981 (ECIA). In particular, you asked how the Department interprets this phrase and how the phrase relates to Section 596(c) of the ECIA.

Section 9 of the Education Consolidation and Improvement Act of 1981 Technical Amendments, Pub. L. 98-211, amended Section 564(a) of Chapter 2 by adding a new requirement. Section 564(a)(7) now requires a State to assure in its Chapter 2 application that, "apart from technical and advisory assistance and monitoring compliance with [Chapter 2], the State educational agency has exercised and will exercise no influence in the decisionmaking processes of local educational agencies as to the expenditures made pursuant to its application under section 566."

Since the enactment of Chapter 2 in 1981, a State educational agency (SEA) has had responsibility for the administration and supervision of Chapter 2 programs in the State. See Section 561(b); Section 564(a)(1); 34 CFR 298.3. By amending Section 564(a) as described above, Congress has authorized monitoring as one function of an SEA's administrative and supervisory responsibilities.

An SEA's administrative and supervisory responsibilities include ensuring compliance with the provisions of Chapter 2. How an SEA ensures compliance is the SEA's decision. Section 564(a)(7) authorizes an SEA to monitor its local educational agencies (LEAs) to ensure their compliance. Indeed, with respect to certain kinds of requirements for which the SEA has responsibility for ensuring compliance, monitoring may be the best method. However, Section 564(a)(7) does not specifically require monitoring. There may be other measures that an SEA can also utilize to ensure compliance.

400 MARYLAND AVE., S.W. WASHINGTON, D.C. 20202

Because Section 564(a)(7) does not require monitoring, we do not see any conflict between the phrase "monitoring compliance" in that section and Section 596(c) of the ECIA. As you know, Section 596(c) makes Sections 434, 435, and 436 of the General Education Provisions Act (GEPA) inapplicable to Chapter 2, except to the extent that those sections relate to fiscal control and fund accounting procedures. The Secretary has determined that only Sections 434(a)(2), 435(b)(2) and (5), and 436(b)(2) and (3) of GEPA apply to Chapter 2. See 47 Federal Register 52370 (November 19, 1982). As a result, the Secretary is not authorized under Section 434(a) of GEPA to require a State to submit a monitoring plan for Chapter 2. Likewise, a State is not required under Section 435(b)(3)(E) to assure that it will monitor its LEAs under Chapter 2. However, nothing in these sections prohibits an SEA from monitoring. Thus, these sections do not appear to conflict with Section 564(a)(7).

If I can be of further assistance, please do not hesitate to contact me.

Sincerely,

Lawrence F. Davenport
Assistant Secretary

APPENDIX I

STATE CHAPTER 2 FORMULAS: AMOUNT PER HIGH-COST CHILD

State	Amount for Local Education Agencies	Amount per Enrolled Child	Low Income	Sparse Population	Tax Effort	Limited English Proficiency	Gifted and Talented	Low/High Achievement	Desegregation	Handicapped	Other
			Amount Allocated per High-Cost Child								
AL	$6,870,415	$ 7.01	$ 2.78		$2.65		$6.28				
AK	1,749,888	5.96	32.58	24.94						34.48	
AZ[1]	4,588,568	8.60	*	*				*			
AR	3,498,820	7.05	1.76								
CA	33,239,667	3.07	6.14	2.07		6.14			10.50		
CO	4,178,394	6.13	14.23	3.66							
CT	4,500,842	2.67	9.80						460.00		12.31
DE	1,749,888	10.32	17.91				26.81				
FL	13,138,251	NA						NA			
GA	8,691,792	3.79	18.33								
HI	1,749,888	6.74									
ID	1,749,888	7.01	4.83	6.81							
IL	16,930,444	5.80	14.45								
IN	8,465,942	6.30	11.33	1.32							
IA	4,264,504	5.64	9.93			51.21					
KS	3,303,473	6.85	3.41	1.60			1.35			1.09	
KY	5,646,344	6.57	4.38	4.38	4.38						
LA	6,836,797	6.25	2.18				4.12			4.12	
ME	1,749,888	4.52	18.36								
MD	6,317,345	5.96	5.90							5.57	
MA	8,139,049	2.88	32.00								
MI	14,585,321	4.37		4.37				4.37	4.37		
MN	1,525,938	6.15	2.84	2.39							1.36
MS	1,056,729	7.60	*	*						*	3.10
MO	7,116,058	6.86	6.86	6.86							
MT[1]	1,749,888	8.06	16.12	4.03	8.06						
NE[1]	2,288,973	5.41	4.57							14.06	
NV	1,749,888	10.02	10.02	*							
NH	1,749,888	4.78		*	*					*	9.94
NJ	10,787,930	2.26	4.74				11.92	5.89	15.07		
NM	2,132,442	6.22		*							
NY	25,072,514	NA		*		*		*	60.64		*
NC	8,837,962	5.46	8.24								
ND	1,749,888	11.89	13.00	26.00							
OH	16,283,672	5.61	11.20	55.99	8.40						16.80
OK	4,387,645	6.00	2.96	2.54						5.23	
OR	3,705,198	5.41	6.10	6.10		6.10	6.10		6.10	6.10	
PA	17,402,233	4.52	20.31	2.92							
RI	1,749,888	6.03	21.95			21.95				21.95	
SC	4,962,888	5.05	8.43								
SD	1,749,888	11.39		5.15						7.36	
TN	6,863,136	6.56	6.56								
TX	22,138,379	5.06	5.06			5.06				5.06	5.06
UT	2,471,165	5.31		*						*	*
VT	1,749,888	9.94	24.15	24.15	7.16						
VA	7,859,858	4.92	4.92					4.92			
WA	5,878,631	3.64	4.38			15.23	24.30		24.47		
WV	2,922,215	5.95	3.73							3.54	
WI	7,135,305	3.81	17.32								375.00
WY	1,749,888	13.97	13.97	13.97	13.97		13.97				

[1]Unofficial estimates.

*Factor formula data not available.

APPENDIX I

TYPES OF HIGH-COST WEIGHTINGS USED IN STATE CHAPTER 2 FORMULAS

Definitions of High-Cost	Number of States Using	Average Percentage Set Aside	Number of States Targeting	Average Amount Per Pupil	Per-Pupil Range	Average % LEAs Funded
Low-Income	42	19.1%	17	$10.79	$1.76-$32.58	75
• AFDC/Title I Count (AK, AZ, DE, IL, KS, LA, MA, MD, ME, MN, NE, NV, OR, PA, TX, WV, WA, WI, OK, WY, MT)	21	18.4%	0	11.49		98
• Other Low-Income Counts (Free lunch, census, comb.) TN, ID, NC, MS, GA	5	25.5%	0	9.49		99
• Minimum Low-Income Count (AL, CA, CT, CO, IN, IA, KY, MO, ND, NJ, OH, RI, SC, VA, VT, AR)	16	18.3%	17	9.72		40
Sparsity/Rural Isolation	26	6.0%	26	10.82	$1.32-$55.99	45
• Floor Formulas (Guarantee minimum grant) AK ($5,000), CA ($2,500), NM ($3,000), NV ($3,000)	4	18.8%	4	13.50		77
• Small Size, Sparse Settlement (ID, IN, KS, MI, MN, MO, MT, OH, ND, OK, OR, CO, PA, SD, WY, VT, KY)	17	4.0%	17	10.50		28
• Small Size Adjustment Factor (AZ, MS, NV, NH, NY, UT)	6	NA	NA	NA		NA
Tax Effort	6	13.7%	6	7.44	$2.65-$13.97	20
• Above Average Tax Rate, Below Average Per-Pupil Expenditure (AL, KY, MT, OH, VT, WY)	6	13.7%	6	7.44		20

--Continued

APPENDIX I --Cont.

TYPES OF HIGH-COST WEIGHTINGS USED IN STATE CHAPTER 2 FORMULAS

Definitions of High Cost	Number of States Using	Average Percentage Set Aside	Number of States Targeting	Average Amount Per Pupil	Per-Pupil Range	Average % LEAs Funded
Low Achievement	6	24.0%	3	NA	NA	71
• Low Test Scores AZ, FL, NJ, NY	4	25.0%	3	NA	NA	99
• Concentrations of Low Achievers MI, VA, (NY)	2	18.0%	2	NA	NA	30
Limited English-Speaking	7	4.0%	7	17.62	$5.06-$51.21	31
• State Census or LEA Data CA, IA, NY, OR, TX, WA	7	4.0%	7	17.62		31
Gifted and Talented	8	5.1%	3	11.86	$1.35-$26.81	78.2
• LEAs with High G/T Enrollment (including special programs for gifted/talented) NJ, OR, WY	3	3.3%	3	10.66		47.3
• Children Identified as G/T AL, DE, KS, LA, WA	5	6.2%	0	12.57		96.8
Desegregation Efforts	7	19.1%	7	83.02	$4.37-$460.24	2.9
• LEAs with Desegregation Programs CA, MI, NJ, OR, WA	5	21.6%	5	12.10		3.6
• Children Enrolled in Magnet Schools (CT, NY)	2	13.0%	2	260.32		1.0
Handicapped	15	8.7%	1	10.92	$3.54-$34.48	90.1
• LEA Count of Handicapped AK, DE, KS, MD, NE, OK, LA, OR, SD, TX, WV	11	8.7%	0	8.84		94.9
• Concentration of Handicapped RI	1	11.0%	1	21.95		28.0
• Handicapped Adjustment Factor MS, NH, UT	3	NA	0	NA		NA

Office for Civil Rights

TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Report on Nonpublic Schools Participating in Federal Programs

This Report is in response to questions concerning the participation by children enrolled in a nonpublic school in federally assisted programs administered by a public school.

Section 601 of Title VI of the Civil Rights Act of 1964 provides as follows:

> No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity which receives Federal financial assistance.

Any educational institution or system which applies to become a recipient of Federal financial assistance is required by the Office for Civil Rights (OCR) to submit an assurance of compliance form (HEW Form 441). See 45 CFR 80.4. In addition, the Office for Civil Rights requires such an applicant to provide adequate documentation relating to the policies and practices of participating institutions, in order to show that the program receiving Federal assistance will not be administered in a discriminatory manner.

The issue addressed here in whether OCR requires any information or documentation from a nonpublic school in order to determine that children enrolled in that nonpublic school are eligible to participate in a federally assisted program being administered by a public school or agency.

If the nonpublic school were a recipient of Federal financial assistance, apart from the federally assisted program administered by the public school, then the nonpublic school would be subject to the requirements, noted above, to submit a HEW Form 441 and other documentation. However, if the nonpublic school is not to be a recipient of Federal financial assistance, but merely seeks eligibility for its students to participate in the federally assisted program of the public institution, OCR does not require HEW Form 441 from the nonpublic school. Rather, OCR requires the public institution which is the recipient of Federal assistance to provide that form and the documentation referred to above. The recipient school is responsible for making sure that no discriminatory practices occur in the federally assisted program and, if any questions arise in this regard, OCR looks to the recipient for further information or compliance activities.

It should be noted, however, that the children enrolled in the nonpublic school cannot participate in the public school program if the nonpublic school engages in discriminatory practices prohibited by Title VI. Even though the nonpublic school is not a recipient, any discriminatory practices by it would, in our view, directly affect the federally assisted program.

Although the Regional Offices of OCR will be able to provide information about those schools which have become the subject of a compliance review, OCR does not maintain a list, as such, of approved nonpublic schools and we do not require a nonpublic school to be so listed in order that children enrolled there can participate in public school programs.

If there are any questions they should be sent to the appropriate Regional OCR Director. Their names and addresses are as follows:

Region I—Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont

Mr. John G. Byrne, Director, Office for Civil Rights, Region I, Department of Health, Education, and Welfare, HEW General Building—Room 281, Bulfinch Place—Government Center, Boston, Massachusetts 02114.

Region II—New Jersey, New York, Puerto Rico, Virgin Islands

Ms. Barbara Waller, Acting Director, Office for Civil Rights, Region II, Department of Health, Education, and Welfare, 26 Federal Plaza—Room 3835, New York, New York 10007.

Region III—Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia

Mr. Dewey R. Dendy, Director, Office of Civil Rights, Region III, Department of Health, Education, and Welfare, Gateway Building, 3535 Market Street, Post Office Box 13716, Philadelphia, Pennsylvania 19101.

Region IV—Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee

Mr. William Thomas, Director, Office for Civil Rights, Region IV, Department of Health, Education, and Welfare, 50 Seventh Street, N.E., Atlanta, Georgia 30323.

Region V—Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin

Mr. Kenneth A. Mines, Director, Office for Civil Rights, Region V, Department of Health, Education, and Welfare, 300 South Wacker Drive—6th Floor, Chicago, Illinois 60606.

Region VI—Arkansas, Louisiana, New Mexico, Oklahoma, Texas

Mr. Dorothy D. Stuck, Director, Office for Civil Rights, Region VI, Department of Health, Education, and Welfare, 1200 Main Tower Building—Room 949, Dallas, Texas 75202.

Region VII—Iowa, Kansas, Missouri, Nebraska

Mr. Taylor D. August, Director, Office for Civil Rights, Region VII, Department of Health, Education, and Welfare, 12 Grand Building, 12th & Grand Streets—7th Floor, Kansas City, Missouri 64106.

Region VIII—Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming

Mr. David Florence, Director, Office for Civil Rights, Region VIII, Department of Health, Education, and Welfare, Federal Building, 1961 Stout Street—Room 11037, Denver, Colorado 80202.

Region IX—Arizona, California, Hawaii, Nevada

Mr. Floyd L. Pierce, Director, Office for Civil Rights, Region IX, Department of Health, Education, and Welfare, 100 Market Street—Room 700, San Francisco, California 94102.

Region X—Alaska, Idaho, Oregon, Washington

Mr. Marianna Kline, Director, Office for Civil Rights, Region X, Department of Health, Education, and Welfare, Arcade Plaza Building, 1321 Second Avenue, M/S 105, Seattle, Washington 98101.

Dated: August 16, 1978.

MARTIN E. GERRY,
Director, Office for Civil Rights.

[FR Doc.78-24004 Filed 8-30-78;8:45 am]

BEST COPY AVAILABLE

EFFECTIVE DATE

SEC. 547. This subtitle shall take effect on October 1, 1981.

Subtitle D—Elementary and Secondary Education Block Grant

SEC. 551. This subtitle may be cited as the "Education Consolidation and Improvement Act of 1981".

CHAPTER 2—CONSOLIDATION OF FEDERAL PROGRAMS FOR ELEMENTARY AND SECONDARY EDUCATION

STATEMENT OF PURPOSE

SEC. 561. (a) It is the purpose of this chapter to consolidate the program authorizations contained in—

(1) titles II, III, IV, V, VI, VIII, and IX (except part C) of the Elementary and Secondary Education Act of 1965;

(2) the Alcohol and Drug Abuse Education Act;

(3) part A and section 532 of title V of the Higher Education Act of 1965;

(4) the Follow Through Act (on a phased basis);
(5) section 3(a)(1) of the National Science Foundation Act of 1950 relating to precollege science teacher training; and
(6) the Career Education Incentive Act;
into a single authorization of grants to States for the same purposes set forth in the provision of law specified in this sentence, but to be used in accordance with the educational needs and priorities of State and local educational agencies as determined by such agencies. It is the further purpose and intent of Congress to financially assist State and local educational agencies to improve elementary and secondary education (including preschool education) for children attending both public and private schools, and to do so in a manner designed to greatly reduce the enormous administrative and paperwork burden imposed on schools at the expense of their ability to educate children.

(b) The basic responsibility for the administration of funds made available under this chapter is in the State educational agencies, but it is the intent of Congress that this responsibility be carried out with a minimum of paperwork and that the responsibility for the design and implementation of programs assisted under the chapter shall be mainly that of local educational agencies, school superintendents and principals, and classroom teachers and supporting personnel, because they have the most direct contact with students and are most directly responsible to parents.

AUTHORIZATION OF APPROPRIATIONS; DURATION OF ASSISTANCE

SEC. 562. (a) There are authorized to be appropriated such sums as may be necessary for fiscal year 1982 and each of the five succeeding fiscal years to carry out the provisions of this chapter.

(b) During the period beginning July 1, 1982, and ending September 30, 1987, the Secretary shall, in accordance with the provisions of this subtitle, make payments to State educational agencies for the purposes of this chapter.

(c) Funds available under previously authorized programs shall be available for the purpose of such payments in accordance with section 514(b)(2) of the Omnibus Education Reconciliation Act of 1981.

ALLOTMENTS TO STATES

SEC. 563. (a) From the sums appropriated to carry out this chapter in any fiscal year, the Secretary shall reserve not to exceed 1 per centum for payments to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, to be allotted in accordance with their respective needs. The Secretary shall reserve an additional amount, not to exceed 6 per centum of the sums appropriated, to carry out the purposes of section 583. From the remainder of such sums the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the school-age population of the State bears to the school-age population of all States, except that no State shall receive less than an amount equal to 0.5 per centum of such remainder.

(b) For the purposes of this section:

BEST COPY AVAILABLE

(1) The term "school-age population" means the population aged five through seventeen.

(2) The term "States" includes the fifty States, the District of Columbia, and Puerto Rico.

STATE APPLICATIONS

SEC. 564. (a) Any State which desires to receive grants under this chapter shall file an application with the Secretary which—

(1) designates the State educational agency as the State agency responsible for the administration and supervision of programs assisted under this chapter;

(2) provides for a process of active and continuing consultation with the State educational agency of an advisory committee, appointed by the Governor and determined by the Governor to be broadly representative of the educational interests and the general public in the State, including persons representative of—

(A) public and private elementary and secondary schoolchildren;

(B) classroom teachers;

(C) parents of elementary and secondary schoolchildren;

(D) local boards of education;

(E) local and regional school administrators (including principals and superintendents);

(F) institutions of higher education; and

(G) the State legislature;

to advise the State educational agency on the allocation among authorized functions of funds (not to exceed 20 per centum of the amount of the State's allotment) reserved for State use under section 565(a), on the formula for the allocation of funds to local educational agencies, and on the planning, development, support, implementation, and evaluation of State programs assisted under this chapter;

(3) sets forth the planned allocation of funds reserved for State use under section 565(a) among subchapters A, B, and C of this chapter and among the authorized programs and projects which are to be implemented, and the allocation of such funds required to implement section 586, including administrative costs of carrying out the responsibilities of the State educational agency under this chapter;

(4) provides for timely public notice and public dissemination of the information provided pursuant to paragraphs (2) and (3);

(5) beginning with fiscal year 1984, provides for an annual evaluation of the effectiveness of programs assisted under this chapter, which shall include comments of the advisory committee, and shall be made available to the public; and

(6) provides that the State educational agency will keep such records and provide such information to the Secretary as may be required for fiscal audit and program evaluation (consistent with the responsibilities of the Secretary under this chapter); and

(7) contains assurances that there is compliance with the specific requirements of this chapter.

(b) An application filed by the State under subsection (a) shall be for a period not to exceed three fiscal years, and may be amended annually as may be necessary to reflect changes without filing a new application.

ALLOCATION TO LOCAL EDUCATIONAL AGENCIES

SEC. 565. (a) From the sum made available each year under section 563, the State educational agency shall distribute not less than 80 per centum to local educational agencies within such State according to the relative enrollments in public and nonpublic schools within the school districts of such agencies, adjusted, in accordance with criteria approved by the Secretary, to provide higher per pupil allocations to local educational agencies which have the greatest numbers or percentages of children whose education imposes a higher than average cost per child, such as—

(1) children from low-income families,

(2) children living in economically depressed urban and rural areas, and

(3) children living in sparsely populated areas.

(b) The Secretary shall approve criteria suggested by the State educational agency for adjusting allocations under subsection (a) if such criteria are reasonably calculated to produce an equitable distribution of funds with reference to the factors set forth in subsection (a).

(c) From the funds paid to it pursuant to sections 563 and 564 during each fiscal year, the State educational agency shall distribute to each local educational agency which has submitted an application as required in section 566 the amount of its allocation as determined under subsection (a).

LOCAL APPLICATIONS

SEC. 566. (a) A local educational agency may receive its allocation of funds under this chapter for any year in which it has on file with the State educational agency an application which—

(1) sets forth the planned allocation of funds among subchapters A, B, and C of this chapter and for the programs authorized by such subchapters which it intends to support, including the allocation of such funds required to implement section 586;

(2) provides assurances of compliance with provisions of this chapter relating to such programs, including the participation of children enrolled in private, nonprofit schools in accordance with section 586;

(3) agrees to keep such records, and provide such information to the State educational agency as reasonably may be required for fiscal audit and program evaluation, consistent with the responsibilities of the State agency under this chapter; and

(4) in the allocation of funds for programs authorized by this chapter, and in the design, planning, and implementation of such programs, provides for systematic consultation with parents of children attending elementary and secondary schools in the area served by the local agency, with teachers and adminis-

trative personnel in such schools, and with other groups as may be deemed appropriate by the local educational agency.

(b) An application filed by a local educational agency under subsection (a) shall be for a period not to exceed three fiscal years, may provide for the allocation of funds among programs and purposes authorized by this chapter for a period of three years, and may be amended annually as may be necessary to reflect changes without filing a new application.

(c) Each local educational agency shall have complete discretion, subject only to the provisions of this chapter, in determining how funds the agency receives under this section shall be divided among the purposes of this chapter in accordance with the application submitted under this section.

Subchapter A—Basic Skills Development

USE OF FUNDS

SEC. 571. Funds allocated for use under this subchapter shall be used by State and local educational agencies to develop and implement a comprehensive and coordinated program designed to improve elementary and secondary school instruction in the basic skills of reading, mathematics, and written and oral communication, as formerly authorized by title II of the Elementary and Secondary Education Act of 1965, relating to basic skills improvement, including the special mathematics program as formerly authorized by section 232 of such title.

STATE LEADERSHIP AND SUPPORT SERVICES

SEC. 572. (a) In order to achieve the purposes of this subchapter, State educational agencies may use funds reserved for State programs to make grants to and enter into contracts with local educational agencies, institutions of higher education, and other public and private agencies, organizations, and institutions—

(1) to carry out planning, research and development, demonstration projects, training of leadership personnel, short term and regular session teacher training institutes; and

(2) for the development of instructional materials, the dissemination of information, and technical assistance to local educational agencies.

Each State educational agency may also use such funds for technical assistance and training for State boards of education.

(b) State educational agencies may support activities designed to enlist the assistance of parents and volunteers working with schools to improve the performance of children in the basic skills. Such activities may include—

(1) the development and dissemination of materials that parents may use in the home to improve their children's performance in those skills; and

(2) voluntary training activities for parents to encourage and assist them to help their children in developing basic skills;

except that such activities conducted in local areas shall be conducted with the approval of and in conjunction with programs of local educational agencies.

BEST COPY AVAILABLE

SCHOOL LEVEL PROGRAMS

SEC. 573. (a) In planning for the utilization of funds it allocates for this chapter (from its allotment under section 565) a local educational agency shall provide for the participation of children enrolled in private elementary and secondary schools (and of teachers in such schools) in accordance with section 586. Such plans shall be developed in conjunction with and involve continuing consultation with teachers and principals in such district. Such planning shall include a systematic strategy for improving basic skills instruction for all children which provides for planning and implementation at the school building level, involving teachers, administrators, and (to the extent practicable) parents, and utilizing all available resources in a comprehensive program. The programs shall include—

(1) diagnostic assessment to identify the needs of all children in the school;

(2) the establishment of learning goals and objectives for children and for the school;

(3) to the extent practicable, pre-service and in-service training and development programs for teachers, administrators, teacher aides and other support personnel, designed to improve instruction in the basic skills;

(4) activities designed to enlist the support and participation of parents to aid in the instruction of their children; and

(5) procedures for testing students and for evaluation of the effectiveness of programs for maintaining a continuity of effort for individual children.

(b) The programs described in subsection (a) may include such areawide or districtwide activities as learning centers accessible to students and parents, demonstration and training programs for parents, and other activities designed to promote more effective instruction in the basic skills.

Subchapter B—Educational Improvement and Support Services

STATEMENT OF PURPOSE

SEC. 576. It is the purpose of this subchapter to permit State and local educational agencies to use Federal funds (directly, and through grants to or contracts with educational agencies, local educational agencies, institutions of higher education, and other public and private agencies, organizations, and institutions) to carry out selected activities from among the full range of programs and projects formerly authorized under title IV, relating to educational improvement, resources, and support, title V, relating to State leadership, title VI, relating to emergency school aid, of the Elementary and Secondary Education Act of 1965, section 3(a)(1) of the National Science Foundation Act of 1950, relating to precollege science teacher training, and part A and section 532 of title V of the Higher Education Act of 1965, relating to the Teacher Corps and teacher centers, in accordance with the planned allocation of funds set forth in the applications under sections 564 and 566, in conformity with the other requirements of this chapter.

BEST COPY AVAILABLE

AUTHORIZED ACTIVITIES

SEC. 577. Programs and projects authorized under this subchapter include—

(1) the acquisition and utilization—

(A) of school library resources, textbooks, and other printed and published instructional materials for the use of children and teachers in public and private elementary and secondary schools which shall be used for instructional purposes only, and

(B) of instructional equipment and materials suitable for use in providing education in academic subjects for use by children and teachers in elementary and secondary schools which shall be used for instructional purposes only,

which take into account the needs of children in both public and private schools based upon periodic consultation with teachers, librarians, media specialists, and private school officials;

(2) the development of programs designed to improve local educational practices in elementary and secondary schools, and particularly activities designed to address educational problems such as the education of children with special needs (educationally deprived children, gifted and talented children, including children in private schools);

(3) programs designed to assist local educational agencies, upon their request, to more effectively address educational problems caused by the isolation or concentration of minority group children in certain schools if such assistance is not conditioned upon any requirement that a local educational agency which assigns students to schools on the basis of geographic attendance areas adopt any other method of student assignment, and that such assistance is not made available for the transportation of students or teachers or for the acquisition of equipment for such transportation;

(4) comprehensive guidance, counseling, and testing programs in elementary and secondary schools and State and local support services necessary for the effective implementation and evaluation of such programs (including those designed to help prepare students for employment);

(5) programs and projects to improve the planning, management and implementation of educational programs, including fiscal management, by both State and local educational agencies, and the cooperation of such agencies with other public agencies;

(6) programs and projects to assist in teacher training and in-service staff development, particularly to better prepare both new and in-service personnel to deal with contemporary teaching and learning requirements and to provide assistance in the teaching and learning of educationally deprived students; and

(7) programs and projects to assist local educational agencies to meet the needs of children in schools undergoing desegregation and to assist such agencies to develop and implement plans for desegregation in the schools of such agencies.

Subchapter C—Special Projects

STATEMENT OF PURPOSE

SEC. 581. It is the purpose of this subchapter to permit State and local educational agencies to use Federal funds (directly and through grants to or contracts with educational agencies, local educational agencies, institutions of higher education, and other public and private agencies, organizations, and institutions) to carry out selected activities from among the full range of programs and projects formerly authorized under title III, relating to special projects, title VIII, relating to community schools, and title IX (except part C), relating to gifted and talented children, educational proficiency standards, safe schools program, and ethnic heritage program, of the Elementary and Secondary Education Act of 1965, the Career Education Incentive Act, and part B of title V of the Economic Opportunity Act of 1964, relating to Follow Through programs, in accordance with the planned allocation of funds set forth in the applications under sections 564 and 566, in conformity with the other requirements of this chapter.

AUTHORIZED ACTIVITIES

SEC. 582. Programs and projects authorized under this subchapter include—

(1) special projects (as may be determined to be desirable by the State or local educational agencies) in such areas as—

(A) preparation of students to use metric weights and measurements when such use is needed;

(B) emphasis on the arts as an integral part of the curriculum;

(C)(i) in-school partnership programs in which the parents of school-age children participate to enhance the education and personal development of the children, previously authorized by part B of the Headstart-Follow Through Act;

(ii) preschool partnership programs in which the schools work with parents of preschool children in cooperation with programs funded under the Headstart-Follow Through Act;

(D) consumer education;

(E) preparation for employment, the relationship between basic academic skill development and work experience, and coordination with youth employment programs carried out under the Comprehensive Employment and Training Act;

(F) career education previously authorized by the Career Education Incentive Act;

(G) environmental education, health education, education about legal institutions and the American system of law and its underlying principles, and studies on population and the effects of population changes;

(H) academic and vocational education of juvenile delinquents, youth offenders, and adult criminal offenders; and

(I) programs to introduce disadvantaged secondary school students to the possibilities of careers in the biomedical

and medical sciences, and to encourage, motivate, and assist them in the pursuit of such careers;

(2) the use of public education facilities as community centers operated by a local education agency in conjunction with other local governmental agencies and community organizations and groups to provide educational, recreational, health care, cultural, and other related community and human services for the community served in accordance with the needs, interests, and concerns of the community and the agreement and conditions of the governing board of the local educational agency; and

(3) additional programs, including—

(A) special programs to identify, encourage, and meet the special educational needs of children who give evidence of high performance capability in areas such as intellectual, creative, artistic, leadership capacity, or specific academic fields, and who require services or activities not ordinarily provided by the school in order to fully develop such capabilities;

(B) establishment of educational proficiency standards for reading, writing, mathematics, or other subjects, the administration of examinations to measure the proficiency of students, and implementation of programs (coordinated with those under subchapter A of this chapter) designed to assist students in achieving levels of proficiency compatible with established standards;

(C) programs designed to promote safety in the schools and to reduce the incidence of crime and vandalism in the school environment;

(D) planning, developing, and implementing ethnic heritage studies programs to provide all persons with an opportunity to learn about and appreciate the unique contributions to the American national heritage made by the various ethnic groups, and to enable students better to understand their own cultural heritage as well as the cultural heritage of others; and

(E) programs involving training and advisory services under title IV of the Civil Rights Act of 1964.

Subchapter D—Secretary's Discretionary Funds

DISCRETIONARY PROGRAM AUTHORIZED

SEC. 583. (a) From the sums reserved by the Secretary pursuant to the second sentence of section 563(a) the Secretary is authorized to carry out directly or through grants to or contracts with State and local educational agencies, institutions of higher education, and other public and private agencies, organizations, and institutions, programs and projects which—

(1) provide a national source for gathering and disseminating information on the effectiveness of programs designed to meet the special educational needs of educationally deprived children, and others served by this subtitle, and for assessing the needs of such individuals, including programs and projects formerly authorized by section 376 of the Elementary and Second-

BEST COPY AVAILABLE

ary Education Act of 1965 and programs and projects formerly funded under the "National Diffusion Network" program;

(2) carry out research and demonstrations related to the purposes of this subtitle;

(3) are designed to improve the training of teachers and other instructional personnel needed to carry out the purposes of this subtitle; or

(4) are designed to assist State and local educational agencies in the implementation of programs under this subtitle.

(b) From the funds reserved for the purposes of this section, the Secretary shall first fund—

(1) the Inexpensive Book Distribution Program (as carried out through "Reading is Fundamental") as formerly authorized by part C of title II of the Elementary and Secondary Education Act of 1965,

(2) the programs of national significance in the "Arts in Education" Program as formerly authorized by part C of title III of such Act, and

(3) programs in alcohol and drug abuse education as formerly authorized by the Alcohol and Drug Abuse Education Act,

at least in amounts necessary to sustain the activities described in this sentence at the level of operations during fiscal year 1981, and then utilize the remainder of such funds for the other authorized activities described in subsection (a).

Subchapter E—General Provisions

MAINTENANCE OF EFFORT; FEDERAL FUNDS SUPPLEMENTARY

SEC. 585. (a)(1) Except as provided in paragraph (2), a State is entitled to receive its full allocation of funds under this chapter for any fiscal year if the Secretary finds that either the combined fiscal effort per student or the aggregate expenditures within the State with respect to the provision of free public education for the preceding fiscal year was not less than 90 per centum of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

(2) The Secretary shall reduce the amount of the allocation of funds under this chapter in any fiscal year in the exact proportion to which the State fails to meet the requirements of paragraph (1) by falling below 90 per centum of both the fiscal effort per student and aggregate expenditures (using the measure most favorable to the State), and no such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

(3) The Secretary may waive, for one fiscal year only, the requirements of this subsection if he determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

(b) A State or local educational agency may use and allocate funds received under this chapter only so as to supplement and, to the extent practical, increase the level of funds that would, in the absence of Federal funds made available under this chapter, be made available from non-Federal sources, and in no case may such funds be used so as to supplant funds from non-Federal sources.

(c) The Secretary is specifically authorized to issue regulations to enforce the provisions of this section.

PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS

SEC. 586. (a)(1) To the extent consistent with the number of children in the school district of a local educational agency which is eligible to receive funds under this chapter or which serves the area in which a program or project assisted under this chapter is located who are enrolled in private nonprofit elementary and secondary schools, or with respect to instructional or personnel training programs funded by the State educational agency from funds reserved for State use under section 565, such agency after consultation with appropriate private school officials, shall provide for the benefit of such children in such schools secular, neutral, and nonideological services, materials, and equipment including the participation of the teachers of such children (and other educational personnel serving such children) in training programs, and the repair, minor remodeling, or construction of public facilities as may be necessary for their provision (consistent with subsection (c) of this section), or, if such service, materials, and equipment are not feasible or necessary in one or more such private schools as determined by the local educational agency after consultation with the appropriate private school officials, shall provide such other arrangements as will assure equitable participation of such children in the purposes and benefits of this chapter.

(2) If no program or project is carried out under subsection (a)(1) of this section in the school district of a local educational agency, the State educational agency shall make arrangements, such as through contracts with nonprofit agencies or organizations, under which children in private schools in that district are provided with services and materials to the extent that would have occurred if the local educational agency had received funds under this chapter.

(3) The requirements of this section relating to the participation of children, teachers, and other personnel serving such children shall apply to programs and projects carried out under this chapter by a State or local educational agency, whether directly or through grants to or contracts with other public or private agencies, institutions, or organizations.

(b) Expenditures for programs pursuant to subsection (a) shall be equal (consistent with the number of children to be served) to expenditures for programs under this chapter for children enrolled in the public schools of the local educational agency, taking into account the needs of the individual children and other factors which relate to such expenditures, and when funds available to a local educational agency under this chapter are used to concentrate programs or projects on a particular group, attendance area, or grade or age level, children enrolled in private schools who are included within the group, attendance area, or grade or age level selected for such concentration shall, after consultation with the appropriate private school officials, be assured equitable participation in the purposes and benefits of such programs or projects.

(c)(1) The control of funds provided under this chapter and title to materials, equipment, and property repaired, remodeled, or constructed therewith shall be in a public agency for the uses and pur-

BEST COPY AVAILABLE

poses provided in this chapter, and a public agency shall administer such funds and property.

(2) The provision of services pursuant to this section shall be provided by employees of a public agency or through contract by such public agency with a person, an association, agency, or corporation who or which, in the provision of such services, is independent of such private school and of any religious organizations, and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this chapter shall not be commingled with State or local funds.

(d) If by reason of any provision of law a State or local educational agency is prohibited from providing for the participation in programs of children enrolled in private elementary and secondary schools, as required by this section, the Secretary shall waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

(e)(1) If the Secretary determines that a State or a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in private elementary and secondary schools as required by this section, he may waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

(2) Pending final resolution of any investigation or complaint that could result in a determination under this subsection or subsection (d), the Secretary may withhold from the allocation of the affected State or local educational agency the amount he estimated would be necessary to pay the cost of those services.

(f) Any determination by the Secretary under this section shall continue in effect until the Secretary determines that there will no longer be any failure or inability on the part of the State or local educational agency to meet the requirements of subsections (a) and (b).

(g) When the Secretary arranges for services pursuant to this section, he shall, after consultation with the appropriate public and private school officials, pay the cost of such services, including the administrative costs of arranging for those services, from the appropriate allotment of the State under this chapter.

(h)(1) The Secretary shall not take any final action under this section until the State educational agency and the local educational agency affected by such action have had an opportunity, for at least forty-five days after receiving written notice thereof, to submit written objections and to appear before the Secretary or his designee to show cause why that action should not be taken.

(2) If a State or local educational agency is dissatisfied with the Secretary's final action after a proceeding under paragraph (1) of this subsection, it may within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which he based this action, as provided in section 2112 of title 28, United States Code.

BEST COPY AVAILABLE

(3) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(4) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(i) Any bypass determination by the Secretary under titles II through VI and VIII and IX of the Elementary and Secondary Education Act of 1965 prior to the effective date of this chapter shall remain in effect to the extent consistent with the purposes of this chapter.

REPEALS

SEC. 587. (a) Effective October 1, 1982, the provisions of—

(1) titles II, III, IV, V, VI, VIII, and IX (except part C) of the Elementary and Secondary Education Act of 1965;

(2) part A and section 532 of title V of the Higher Education Act of 1965;

(3) the Alcohol and Drug Abuse Education Act; and

(4) the Career Education Incentive Act;

are repealed.

(b) Effective October 1, 1984, subchapter C of chapter 8 of subtitle A of title VI of this Act, relating to Follow-Through programs is repealed.

SELECTED REFERENCES

American Association of School Administrators, Private School Participation in Chapter 2, April 1984.

Committee on Government Operations, Block Grants Have Weakened Federal Programs for the Disadvantaged, U.S. House of Representatives Report No. 98-581, November 1983.

Council of the Great City Schools, Federal Education Budget Policy 1980-1984: Effects on the Great City Schools, October 1984, and Trends in Federal Funding to Urban Schools: A Progress Report on the Reagan Years, February 1983.

Government Accounting Office, Education Block Grant Alters State Role and Provides Greater Local Discretion, November 1984 and Lessons Learned from Past Block Grants: Implications for Congressional Oversight, September 1982.

Hickrod, Hubbard, and Hou, "A Proposal for the Distribution of Federal Block Grant Funds in Illinois," Illinois State University, Normal, Illinois, April 1982.

Louisiana Department of Education, A New Partnership: The Education Block Grant in Louisiana, Baton Rouge, March 1985.

National Association of State Boards of Education, "The Education Consolidation and Improvement Act of 1981: Its Meaning for State and Local Policymakers and Administrators," 1981.

National Committee for Citizens in Education, No Strings Attached: An Interim Report on the New Education Block Grant, Columbia, Maryland, 1983.

National Council of La Raza, "Community Access to Information on Education: A Case Study on the Education Block Grant," August 1984.

National Institute of Education, Kaleidescopes: Emerging Patterns of Response and Action in ECIA Case Studies of Chapter 2 in Selected States, July 1983, and "Preliminary Findings from a Study of the Implementation and Effects of Chapter 2 of the ECIA in Nine States," 1985.

New Jersey Department of Education, A Program Evaluation of the Effectiveness of the ECIA Chapter 2, Trenton, December 1984.

Rand Corporation, The New Federalism in Education: State Responses to the 1981 Education Consolidation and Improvement Act, February 1983.

Research for Better Schools, Intentions and Impacts: A Comparison of Sources of Influence on Local School Systems, November 1984, and The Meaning of Funding Cuts: Coping with Chapter 2 of ECIA, November 1983.

SRI International, Cumulative Effects of Federal Education Policies on Schools and Districts, Menlo Park, California, January 1983.

U.S. Department of Education, "Setting the Record Straight: What ED Knows about Private School Participation under ECIA Chapter 2," Planning and Evaluation Service, 1984.